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CFTC, USDA FARM CREDIT NOMINATIONS HEARING

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 30, 2009

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CFTC, USDA FARM CREDIT NOMINATIONS HEARING

Wednesday, September 30, 2009

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY
Washington, DC

The Committee met, pursuant to notice, at 9:50 a.m., in room 328A, Russell Senate Office Building, Hon. Blanche Lincoln, chairman of the Committee, presiding.

Present: Senators Lincoln, Harkin, Leahy, Klobuchar, Nelson, Chambliss, Lugar, Cochran and Thune.

Senator HARKIN. First I would just like to say that this is a kind of a bittersweet moment for me. I have been honored to chair this Committee and I have been honored to be on it for 25 years now and then 10 in the House. It has just been a great pleasure and honor to be able to be the chair of this wonderful Committee and I want to thank all of the members of the Committee for the great cooperation that you have given me in the past and for especially in the development of the last Farm Bill.

I especially want to think Saxby Chambliss for a great working relationship, both personally and among our staff, and I cannot thank you enough for all that we did together to work together to get a really great Farm Bill through and I want to thank you for that.

However, I must say that my sadness in leaving the chairmanship is more than compensated by the knowledge that the person taking over the chair is someone that is devoted, devoted to the well-being of our family farmers, is devoted to the economic vitality of our rural communities and, of course, to the nutrition of our children.

And so I am honored to be able to turn over the gavel this morning to Senator Lincoln. I am cognizant of the fact that this is indeed an historic moment. No woman has ever chaired this Committee and this will also be the first Arkansan to ever chair the Agriculture Committee.

So it is with great pleasure and great pride to be able to give the gavel now to you, Senator Lincoln of Arkansas, and we are proud to call you our chairman.

[Applause.]

Chairman LINCOLN. Thank you. Thank you all so much for such an incredible warm welcome to this chairmanship. I am enormously grateful to all of my colleagues for their confidence that they placed in me in the ability to run this Committee and I am

so indebted to each and every one of them for the unbelievable devotion that they give to this Committee.

I know with that kind of devotion, hard work and friendship, we are going to do great things in the Senate Agriculture Committee. So thank you so much, Chairman Harkin, and to all the former chairmen who are here, which are a lot. So I am very grateful and thanks to all of you all for participating in my first hearing, which I am delighted to be a part of.

Senator CHAMBLISS. Madam Chairman, before you take off on your first official business, let me say first of all to my good friend Tom Harkin, I appreciate those kind comments. It has been a real pleasure to work with you, Tom. We have had a great working relationship and as you say, our staffs have worked extremely well together and we have been through some difficult times together trying to look after American farmers and ranchers.

Under your leadership, I think we have accomplished an awful lot. We will still call you Mr. Chairman, but it will just be in a little different capacity there. But we look forward to having you continue on this Committee and you are exactly right that handing off the gavel to Blanche Lincoln has to be a pleasure for you and certainly a pleasure for me.

Blanche and I worked on so many issues together, both on the Ag Committee and off the Ag Committee. When I sit down with her, I do not need an interpreter. We seem to both speak slowly enough that we can understand each other, coming from the same part of the world. She, obviously having grown up on a family farm, knows and understands and has a great appreciation for the difficulties that farmers and ranchers are going through right now.

Her leadership is going to pick up right where you left off, Tom, and we are not going to miss a beat. She is such a great friend, a great leader. It is going to be a lot of fun to have a chance to work with you Blanche, so congratulations to you. Your colleagues on the Democratic side have made a wise choice in bringing you forward.

Gosh, we are going to have to get a wide angle lens, sure enough, to get all of these former chairmen that are in this room now and on this Committee in any photograph. I think that speaks well for the Committee.

Chairman LINCOLN. It does.

Senator CHAMBLISS. We look forward to your leadership.

Chairman LINCOLN. Thank you.

Senator CHAMBLISS. Congratulations.

Senator LEAHY. Madam Chairman.

Chairman LINCOLN. Absolutely.

Senator LEAHY. If I could just make—as one who has served on this Committee now for 35 years, I am delighted to see you here. You are a true daughter of rural America and for those of us who were born and raised in rural America, it means a lot. It is more than just particular commodities, but it is what it means for all of rural America and the need for us to have you here.

I do want to commend both Tom Harkin and Saxby Chambliss for the way they have switched hats back and forth and the way they have run this Committee in a bipartisan, often non-partisan fashion, and that means a lot. Dick Lugar and I did that. As both

chairman and ranking member, we had the opportunity, both of us, to serve in both capacities and be able to work out most things. I think it is because we were able—I wish we could do that in all committees. Not thinking of any one in particular, but the fact that we were able to work things out and you have that ability.

Thad Cochran, the same way, has chaired this Committee. Maybe we should have a special chairman pin or former chairman pin, because we are all here.

Chairman LINCOLN. We will work on that.

Senator LEAHY. I will tell one very quick story, which Senator Lugar knows. When we were both brand new members and sitting way, way down at the end, and former chairman, Herman Talmadge, and Jim Eastland were sitting up here and Senator Eastland brought up some little old amendment, it was about this thick, and just hands it to Talmadge and says, Talmadge says, well without objections, it is accepted.

And I said, wait a minute, could I ask what is in that? The two of them pulled their cigars out of their mouth, looked way down where Lugar and I are sitting. Dick and I are there. They were trying to figure out whether it was Dick Lugar said it or I said it. Either way, they did not know who the heck either one of us were. Talmadge just says, we are adjourned.

[Laughter.]

Senator LEAHY. You will be a different type of chair.

Chairman LINCOLN. I promise.

Senator LEAHY. Thank you and I will go down to Judiciary.

Chairman LINCOLN. Well, thank you, Senator Leahy.

Senator LUGAR. Madam Chairman, if I am just a moment spurred on by Senator Leahy's comments about the two of us sitting at the end of the table, the table then extended almost all the way to the door. As I recall, those who are now sitting in the chairs in the way were on the sidelines in some fashion.

There was mention of smoke. As a matter of fact, the chairman and Senator Eastland were engulfed in smoke so that we could hardly see their faces in the midst, a change in culture during the period of this thing.

Chairman LINCOLN. We are growing and changing.

Senator LUGAR. Yes. We appreciate your coming to the chairmanship very much.

Chairman LINCOLN. Thank you.

Senator LUGAR. We look forward to working with you.

Chairman LINCOLN. Absolutely. We do.

Senator KLOBUCHAR. Madam Chair?

Chairman LINCOLN. Yes?

Senator KLOBUCHAR. If I could just on behalf of the women in the Senate, we are so excited about you taking this new position. I was thinking of all those girls in 4–H showing up at our state fair and all those farming women out there. You have really set a new standard and a new mentor for people who farm and women who farm.

So I wanted to just say that, and I will miss making Iowa jokes to the chairman. I can't. You know, Minnesota, we like to do that.

Chairman LINCOLN. But Arkansas is so much more colorful.

[Laughter.]

Senator KLOBUCHAR. Yeah, I am sure there are no Arkansas jokes that I can come up with. I do know Minnesota, Arkansas are No. 1 and three for turkeys in the country.

Chairman LINCOLN. There you go.

Senator KLOBUCHAR. No one should make turkey jokes. But congratulations again and thank you for your chairmanship, Senator Harkin.

STATEMENT OF HON. BLANCHE L. LINCOLN, U.S. SENATOR FROM THE STATE OF ARKANSAS, CHAIRMAN, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Chairman LINCOLN. Well thank you all and I am going to call the Committee to order here. The Committee on Agriculture, Nutrition and Forestry will come to order.

Just a special thanks to all of you all and would hope you would allow me to begin on a personal note since this is my first opportunity to officially chair the Committee. It is a tremendous honor to serve as chairman of this Committee and I will endeavor to be the type of steward of this position that the American people and the people of Arkansas deserve. With all of your help, I know I can accomplish that.

As all of you know, the Senate Agriculture Committee does have a well earned and a time-honored reputation for bipartisanship and for working together to promote policies that are born not out of partisanship, but out of consensus as to what policies are proven to work. I could not ask for a better partner than my ranking member here, Saxby Chambliss.

I have the privilege and benefit of serving beside five previous chairmen of this Committee and one previous chairman of the House Agriculture Committee—I will not forget my good buddy Pat Roberts who I had to beg to get on the House Ag Committee and he finally let me on—each of whom have served with great distinction and from whom we have learned a tremendous amount.

Also among our Committee's membership, I count four chairmen, three ranking members of our very important Senate committees, as well as a former secretary of Agriculture and the Senate Republican leader, each of whom adds to the collective experience, strength and wisdom of this great panel.

So let me always say that I truly appreciate the regional diversity that is reflected on this Committee and the unique areas of expertise and interest possessed by each of our members on the Ag Committee. Despite significant policy challenges that we have faced over the years, and even differences of opinion now and again, this Committee has always pulled together and risen to the occasion.

In short, I am very, very proud of each member's contribution to this Committee and I appreciate what each of you all will bring to the table as we move forward on so many critical issues. I am really looking forward to working with each of you all. We have a lot of things on our plate and promoting economic opportunity and jobs in rural America in these economic times, we have great opportunity.

My dad always said, when you have tremendous challenges, look hard because you will find the opportunities. We have opportunities in meeting the nutritious needs of our school children and el-

derly and low-income families, again, particularly in these economic times and continuing to build our successful resource conservation efforts, which we know and many of us have experienced and realized whether it is on our farms or without a doubt in working with your farmers and ranchers across the country.

We have the opportunity of enhancing America's energy independence and ensuring that the men and women who have clothed and fed this nation in a manner that is unrivaled in history continue to do what they do best, and that we can reinforce them and we can empower them to continue to do that and I look forward to it.

In this last regard, I would like to quote our late President John F. Kennedy who said, our farmers deserve praise, not condemnation and their efficiency should be cause for gratitude, not something for which they are penalized. With 6.8 billion people sharing this world that we live in today, compared to the roughly three million in 1960, President Kennedy's words ring truer today than ever before.

I know and you all know that sometimes the Ag Committee is not the most glamorous committee on Capitol Hill, but we have a tremendous responsibility and opportunity to really reflect to the American people and the world the hard working men and women, their families, across this great country that do such a tremendous job.

So whether you are from Iowa or Arkansas, Georgia or Vermont, California or Idaho, if you work to feed and clothe this nation and those around the world, all across the globe, this chairman and this Committee are firmly on your side. And I know that the ranking member of the Committee, my good friend, Saxby Chambliss, shares these goals and sentiments and I could not have a greater friend or a more respected Senate colleague than my partner on this Committee and I am grateful to you, Senator Chambliss, for everything you and your staff do. I look forward to so much moving forward and getting started on the business of the Committee.

We are going to have a good time. We will work hard. We will play hard and we will get things accomplished and I am grateful to you for your friendship and help.

So now, moving on to the purpose of this hearing. We have all had a great stroll down memory lane and we are going to allow the chairman to move to his new chairmanship.

Senator HARKIN. Madam Chairman, this also is my first day to chair my new committee, so I beg your leave. I have to leave to go chair my committee.

Chairman LINCOLN. Well good luck to you and thank you again, Mr. Chairman.

Senator HARKIN. Congratulations.

Chairman LINCOLN. Absolutely. So now we will move on to the purpose, as we say our good byes here, to the hearing at hand.

Today the Committee is meeting to consider six nominations to the USDA, the CFTC, the Farm Credit Administration, and specifically, we consider two nominees for the U.S. Department of Agriculture, Mr. Harris Sherman and Mr. Edward Avalos. Sorry, got to get that one right.

Mr. Sherman has served as executive director of the Colorado Department of Natural Resources for Gov. Bill Ritter and Richard Lamm. In this capacity, Mr. Sherman gained experience working on policies that he would be responsible for if confirmed as the under secretary for Natural Resources and Environment, including management of the Forest Service and the Natural Resources Conservation Service.

Mr. Avalos—help me with that—Avalos has been nominated to serve as the under secretary of Marketing and Regulatory Programs. If confirmed, his mission would touch upon virtually all of American agriculture. The three agencies under his jurisdiction, the Animal and Plant Health Inspection Service, the Grain Inspection Packers and Stockyards Administration, and the Agricultural Marketing Service have broad ranging and important responsibilities within the department.

Mr. Avalos was raised on a family farm in New Mexico, where a variety of specialty crops are grown, including chili peppers, pecans, onions, as well as staple crops like cotton and wheat. His career in agriculture includes 29 years of service at the New Mexico Department of Agriculture, where he successfully worked to implement trade and promotion initiatives aimed at increasing U.S. farm exports. Mr. Sherman and Mr. Avalos are also nominated to serve as members of the board of directors of the Commodity Credit Corporation.

We also meet to consider three nominees to the Commodity Futures Trading Commission, Bart Chilton, Jill Sommers and Scott O'Malia. The CFTC is tasked with regulating commodities futures and options markets dealing with everything from cotton futures to financial derivatives.

CFTC polices the markets that affect everything from the food we eat to the gas that we put in our car to the loans we borrow at our local banks. The CFTC protects market participation from fraud, manipulation and other abuses while making certain that the markets are fully functioning.

Congress, and in particular, this Committee, will soon consider financial regulatory reform and the CFTC will have a front and center role in this effort. In light of this, I am pleased that the Committee is moving as expeditiously as possible to consider these three nominees who bring years of experience, knowledge and diverse perspectives to the Commission.

The Commission and the staff at the CFTC face significant challenges and a heavy workload in the coming months, so it is vital to have this highly qualified team on the job.

Finally, we consider the nomination of Kenneth Spearman for the Farm Credit Administration Board. The Farm Credit Administration is responsible for regulating and examining the banks, the associations and related entities of the Farm Credit System and Farmer Mac. In 2007, Farm Credit System held about 34 percent of the farm sector's total debt, as much—such who serve on that board play an extremely important role in ensuring the continued availability of stable and adequate credit in farm country all across the nation.

Mr. Spearman brings a wealth of experience to the Farm Credit Administration Board. His work in cooperative banking and on fi-

nancial policy issues over the last 28 years will be an invaluable asset to the Farm Credit Administration. Mr. Spearman is nominated for a term that expires next year and for a full 6–year term that expires in May of 2016.

I look forward to the statements of the nominees and their answers to the questions that members of this Committee may have. I would now like to yield to the ranking member, Senator Chambliss, for any statement that he may have and then we will have introductions from other senators.

STATEMENT OF HON. SAXBY CHAMBLISS, U.S. SENATOR FROM THE STATE OF GEORGIA

Senator CHAMBLISS. Well thank you very much, Madam Chairman, and boy, it has a great ring to it, Madam Chairman. Again, I want to congratulate you on taking the gavel, just to let you know that you have great friends on this side of the table, and as Senator Leahy said, we have always had a bipartisan committee that is going to get even stronger as we go through the final implementation of the current Farm Bill and look forward to working on the next one as we are already approaching that.

I think we would be a little remiss if on this side we did not recognize the great work that the staff of Senator Harkin has done. And to Mark and Susan, thank you all for your great work, your great cooperation and your commitment to agriculture across the country, and Madam Chairman, to you for bringing Robert Holifield back to the Committee. We are very pleased to have him back, having worked very closely with Robert on the Farm Bill last year. He brings a great wealth of knowledge not just there, but I just saw Chairman Gensler a minute ago, who has come to show his generous support for these nominees.

I know he hates to lose Robert at CFTC, but if we move forward to financial reform, this Committee is going to play an integral role there and Robert has a very strong background that he can bring to the table now to help us. So Robert, we are pleased to have you here as a staff director under Chairman Lincoln. It has a great ring.

Madam Chairman, thank you for holding this important hearing and to consider these nominations pending before the Ag Committee. As we seek to reform our financial system, address the ongoing credit crisis, and have the recently enacted Farm Bill properly implemented, it is vital that we have good leadership in place at the Commodities Futures Trading Commission, the Department of Agriculture, and the Farm Credit Administration.

Commissioners Jill Sommers and Bart Chilton are no strangers to the Ag Committee. Both were previously nominated by President George W. Bush and confirmed by the Senate. President Obama recognized their commitment to ensuring that our commodity markets function properly and the need to keep them in the trenches during this critical time.

I would also like to welcome Scott O'Malia to the Committee. It has been far too long since the Commission was fully seated and Senate confirmed. We must seek to have all three of these nominees confirmed in a timely manner so that all five commissioners can get to work on the important task that the American public ex-

pects them to tackle. The chairman and I were visiting earlier. I am not sure when was the last time we had five full-fledged Senate confirmed commissioners, so this will be an important historical monumental achievement here.

Speaking of tasks, the Food Conservation Energy Act of 2008 was an enormous undertaking by Congress and was enacted over a year ago. It expires in 2012 and yet there are a number of provisions yet to be implemented. The Marketing and Regulatory Programs' mission area at USDA covers many of these provisions. Mr. Avalos, as under secretary, you will oversee a very diverse portfolio at USDA, including plant and animal health, marketing programs and commodity procurement, enforcement of grain standards and fair practices in our meat and livestock industry.

While each of these missions is distinct, they are important to protecting our producers and expanding markets for their products. I trust your long experience with both the Texas and New Mexico Departments of Agriculture will make you a true asset in this role.

Mr. Sherman, you will have a very big job managing our national forests and grasslands, but you will also oversee USDA's programs and activities that promote private land stewardship and conservation. These are the programs that help producers help the land. I look forward to working with you to see that the Farm Bill conservation programs are implemented as Congress intended and are working for producers.

Though there is a pain in agriculture, it generally has not suffered as much as other parts of our economy over the past year. I believe this was due in large part to the sound financial management adopted by producers and their lenders, including the Farm Credit System, over the past 20 years. I hope and expect that will continue into the future and Mr. Spearman, in your role, when confirmed as a member of the board of the Farm Credit Administration, it will be your job to help see that this happens. With your experience in agriculture, accounting and finance, President Obama has found an excellent candidate for the board of the Farm Credit Administration. I am pleased that you have agreed to serve in that position.

Again, I want to thank Chairman Lincoln for making these nominations her first priority and I look forward to a speedy hearing and confirmation of all of these nominees. Thank you.

Chairman LINCOLN. Thank you, Senator Chambliss. We have some guests that are here to introduce some of our nominees and Senator Bennet, I would like to turn to you first since you are here to introduce Mr. Sherman. We are going to do all the introductions first and then we will bring everybody up, because I know that the other senators have other places to go.

Senator BENNETT. Is it you?

STATEMENT OF HON. MICHAEL BENNET, U.S. SENATOR FROM THE STATE OF COLORADO

Senator BENNET. It is me, unless you know Harris Sherman too, in which case, it is better with one T.

Well Madam Chair, let me just say first, congratulations on assuming the chairmanship. I had the good sense, as you know, my

colleagues, you may not know, to marry a woman from Eastern Arkansas, from——

Chairman LINCOLN. That is true.

Senator BENNET [continuing]. The next town over from you. She sounds a lot like you, but she is not the chairman of the Agriculture Committee. But I will say——

Chairman LINCOLN. She is chairman at home though, isn't she?

Senator BENNET. She is. She is, particularly because we have three daughters. But I know how proud everybody back home must feel about that. I know how proud Susan and her folks are of this and so from them, let me say congratulations.

Chairman LINCOLN. Thank you.

Senator BENNET. It is my pleasure today to introduce Harris Sherman and speak in support of his nomination to be under secretary of Natural Resources and Environment at the department. I would also like to welcome his daughter Jessa, who is here today, his sister Barbara Kailey, his brother David Sherman and his niece Shawn Kailey Reagan, who are all here today.

I have known Sherman since 2003, when he was serving as a commissioner on the Denver Water Board. Today Harris serves as executive director of the Colorado Department of Natural Resources and is a member of Governor Ritter's cabinet. As director, he oversees Colorado's energy, water, wildlife, parks and state lands programs. Through the years, I can tell you that Harris has demonstrated an ability to solve difficult problems and balance competing interests regardless of the politics.

If confirmed, his experience making hard decisions as chairman of the Colorado Water Quality Control Commission, chair of the Colorado Mined Land Reclamation Board and chair of the Denver Regional Air Quality Council—There is not much left in Colorado by the way—as well as his work with several non-profit land organizations will prove important as the Nation faces some of the most challenging natural resource issues in decades.

I also want to note that Harris will be charged with overseeing the U.S. Forest Service and the Natural Resources Conservation Service. We know that forest and agriculture are particularly vulnerable to the hazards of climate change and we have seen it in Colorado. In Harris, I know Congress will have a willing partner as we move forward with a pragmatic agenda for protecting our forests and agricultural sector from this severe threat.

Harris has been an invaluable asset to Colorado and made contributions to our state we will never forget. We are glad to share his talents with the rest of the country and I proudly introduce him to the Committee. Thank you, Madam Chair.

Chairman LINCOLN. Thank you, Senator Bennet.

Senator BENNET. Congratulations, Harris.

Chairman LINCOLN. Now the other Senator Bennett, from Utah, as a guest here. I think you wanted to introduce Mr. O'Malia.

STATEMENT OF HON. BOB BENNETT, U.S. SENATOR FROM THE STATE OF UTAH

Senator BENNETT. Thank you very much, Madam Chairman, and we go from one T to two. Whether that is progress or not, I do not—unlike those who talk about a long experience with the person

they are introducing, my relationship with Scott has been relatively brief. We became acquainted just a year ago.

He was nominated for this position in the previous administration and his nomination was blocked by a senator who had a problem not with him, but another problem, and used his nomination as the way to express distress over what the administration was doing. As a consequence of that, when I took over Senator Domenici's slot as the ranking member on the Energy and Water Subcommittee of Appropriations, I inherited Scott.

I am thinking of putting a hold on this nomination myself in an effort to hang on to him because I have found that this young man has an intellectual capacity to grasp a problem, understand it, and then just as importantly, explain it to someone who is a little less qualified to understand the particulars, like myself. He has been an absolutely invaluable member of the staff at the Energy and Water Subcommittee, understanding all of these issues tremendously, high level of energy and activity. There is nothing you can ask him to do that he does not dig into very, very vigorously and very, very well.

I think he will do a superb job at the Commodity Futures Trading Commission. But I will reluctantly give him up to recognize that there comes a time in everybody's career when they need to move forward. I can recommend him absolutely without any reservation as a dedicated public servant with intelligence, integrity and energy that will do a superb job wherever it is he goes.

So I am honored that he has asked me to make this recommendation and I assure the Committee that voting for Scott, and will assure the Senate, that voting for Scott for this assignment is something that we will look back on with great pride and sense of satisfaction as he proves his capacity in whatever assignment he might ultimately get. He has my unqualified endorsement.

Chairman LINCOLN. Thank you Senator Bennett. Senator Cochran, did you——

Senator COCHRAN. Madam Chairman, thank you very much. I have a statement supporting the nomination of Scott O'Malia, which I would ask to be printed in the record. I enthusiastically, as Senator Bennett did, endorse his nomination and urge the Senate to confirm him at the earliest possible time.

Chairman LINCOLN. Great. Thank you. Without objection, we will enter that in the record.

[The prepared statement of Hon. Thad Cochran can be found on page 44 in the appendix.]

Chairman LINCOLN. Senator Nelson is going to join you all over on this side. It is OK. Wherever. We are one big happy family over here.

STATEMENT OF HON. E. BENJAMIN NELSON, U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator NELSON. Thank you, Madam Chair, and I want to introduce Ken Spearman. Where is he? I just walked in. There he is.

Chairman LINCOLN. He is in the back.

Senator NELSON. He is the president's nominee to the Farm Credit Administration Board and his wife, Maria is here. Where is

Maria? Over here. They live in Winter Haven, Florida and that is right in the heart of Florida's citrus belt.

The Farm Credit Administration is obviously vital to your agriculture in this country and it is the largest source of credit to farmers and its effective functioning is crucial to our economic health. You all know this. Given his unique background and experience, he is especially suited for this position. He has been a 28–year veteran of the citrus industry and he serves as a director on the AgFirst Farm Credit Bank, so he is very well versed in banking and finance policy issues.

I think we ought to point out that he is a veteran. He is a Vietnam veteran. He served in Vietnam. Clearly Ken has been involved in a lot of civic and social programs, including tutoring in an adult literacy program, and has been chairman of the board of the Lake Wales Medical Center. I just want to bring all of this to the attention—obviously this is going to be unanimous by acclamation, but I wanted to say my two bits for him, and Madam Chairman, I am going back to the committee meeting that you are missing right now.

[Laughter.]

Chairman LINCOLN. I'm hearing regularly from them. Thank you, Senator Nelson. We appreciate it. Appreciate all the members here in support of our nominees.

To begin this, now we address at hand the business of the day, and if I may, I would like to ask all of you all if you would stand to take an oath.

Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. CHILTON. I do.

Mr. O'MALIA. I do.

Ms. SOMMERS. I do.

Chairman LINCOLN. Great. Again, a mandatory question for you all, do you agree that if confirmed, you will appear before any duly constituted committee of the Congress if asked?

Mr. CHILTON. I will.

Mr. O'MALIA. I will.

Ms. SOMMERS. I will.

Chairman LINCOLN. Great. Thank you. And I would just say to all of our nominees, if you do have family in the room and you would like to introduce them, please do so. Our families are a big part of all of our lives and it is important.

Mine are off in many different places, but I know my sweet dad is looking down on me right now. He was a rice farmer in Arkansas and a salt of the earth man and he is looking down on me today as I take over the Senate Ag Committee, so I hope you all will take that opportunity.

Commissioner Chilton, we would like to hear your statement and we will go through and have questions after that.

STATEMENT OF BARTHOLOMEW CHILTON, NOMINEE TO BE A COMMISSIONER, COMMODITY FUTURES TRADING COMMISSION

Mr. CHILTON. It is a pleasure to be the first person to say thank you, Madam Chair, and thank you to the members of the Com-

mittee, particularly the former chairs, who have spent so much time on the futures industry, more than you may have wanted, but we appreciate it.

The industry has changed dramatically over time. Agriculture, while it remains critically important not just to me, but to all the members of the Committee, is really only 7 percent of the futures industry right now, as I say, an important part. Euro dollars are the No. 1 traded contract. On the physical side, crude oil is the No. 1 physically traded contract.

The markets are now—even last year I was here, it was 80 percent traded electronically. Now it is 90 percent, so the pits are sort of on their way out. The futures industry just in this decade has increased fivefold and $200 billion has come in from what I term as new speculators, and these are different market participants. These are university endowments, hedge funds, pension funds from state and local government, electronically traded funds, index funds, et cetera.

They have a different modus operandi from the traditional commercial participants who have been in these markets, like farmers and ranchers and processors. They are different in really two primary ways. First of all, they do not have an interest in the underlying physical commodity, whether or not it is wheat, corn, cotton, soybeans, or crude oil, et cetera.

Second, their trading strategy is different in that they are not concerned about the daily ups and downs or supply and demand. We term them sometimes price insensitive and I am talking generically about them. Everybody has a little bit different strategy. But what that means is they are concerned with a longer time horizon in trading. They are concerned with, for example, if crude oil will be worth more in 5 years than say it is today, but not so much in the daily stuff.

And so there is a question about whether or not these new speculators have had an impact that may have been unintended on markets, creating an artificial price. Rice University recently said that they were. The Petersen Institute earlier this week, or maybe last week, said that they were. But in fairness, there are lots of studies that say that they are not having an impact.

So as a regulator, what do you do? My view is they are having some impact. Two hundred billion dollars, I think, has an effect. Now I am not suggesting they are driving prices or I think the fundamentals of supply and demand are well intact, but they are having an impact.

But even if you just suggest that it is possible that these new speculators here are having an impact, it is uneconomic, and by that I mean divorced from supply and demand. Even if they are artificially having an impact on prices or have the possibility of it, the Commodity Exchange Act says that we are to deter that. So what appropriate mechanisms do we use that you all have given us through the act to try and ensure that there is no fraud, abuse or manipulation? One of the things we are looking at is putting a limit on positions for traders.

This has worked pretty well with some hiccups, significant hiccups in the last couple of years actually, but it has worked fairly well in the Ag complex. But we do not have it in the energy com-

plex. We do not have position limits in the back months and we do not have them in the metals complex either.

So I think some reasonable level may be appropriate. We have never been about saying to a trader, you are not tall enough to ride, you cannot participate in these markets. But it seems to me that if it is impacting the risk that commercial producers are using, that we certainly need to consider it. But we need to look at all of the markets, not just the regulated markets, and that means the over-the-counter markets, which are currently unregulated.

In that regard, there are three things that I would like you all to consider on this Committee and in Congress that I hope will be included as part of what you do on regulatory reform. First of all, I would like to ensure that we get this OTC authority to look at the OTC markets and to regulate it when it is going to impact price, the price that people pay for gas and putting it in their cars or food on their table.

Second, our manipulation authority needs to be, though standard, needs to be lowered. People have a hard time believing this. In the 35 years that the CFTC has almost been around, we have only had one, one successful manipulation prosecution and that one is under appeal. So clearly the standard needs to be lowered.

And the third thing is criminal authority. I would like to get more of these financial felons and financial fraudsters put in jail. If they do the financial crime, they should do the time, something similar to what Beretta used to say. Now they just pay the civil monetary fine. It does not quite have the same zip to it, does it? And it does not have a deterrent effect either.

And the final thing, and this is something I think we can do back at the ranch at the CFTC, not for you all, but I want you to know that we are on the case, and that is dealing with consumers. All of these market participants, there is a lot of new retail participants, a lot of individuals who are trading and they are in their basements and offices, et cetera, and we do not have anybody right now at the CFTC whose mission, mandate and mantra is consumer literacy, helping them understand what is going on and how these markets work.

If you look at what has been going on with all the Ponzi cases, there is rampant Ponzimonian going on, not just in the U.S., but around the world, and we need to do a better job. A lot of folks that have good hearts and limited incomes are being taken advantage from fraudsters and I am hopeful that with the people dedicated to consumer education and consumer affairs at the CFTC that we will do a lot better job in the future.

Thanks. Congratulations again, and I look forward to taking any questions at the appropriate point.

[The prepared statement of Mr. Chilton can be found on page 50 in the appendix.]

Chairman LINCOLN. Thank you, Commissioner. I also would like to—as we are looking to fill the seats here at the CFTC and bring good help over there, Chairman Genzler, where is—there he is right there. He is hiding. I did not see him at first.

Chairman please stand up and let us thank you for the job that you do.

Mr. CHILTON. Commissioner Dunn is also here with us.

[Applause.]

Chairman LINCOLN. And Mike? I saw Mike when he was coming in and waved at him. Mike Dunn as well as commissioner. So thank both of you gentlemen. We appreciate your being here.

[Applause.]

Chairman LINCOLN. Mr. O'Malia.

STATEMENT OF SCOTT O' MALIA, NOMINEE TO BE A COMMISSIONER, COMMODITY FUTURES TRADING COMMISSION

Mr. O'MALIA. Madam Chairman, Ranking Member Chambliss and members of the Committee, thank you for the opportunity to testify today. Madam Chairman, I would like to congratulate you on your accepting the chairmanship of this Committee. As a father of three daughters, we are always looking for positive role models, and today is a very good teaching lesson.

I am grateful to appear before you as President Obama's nominee to serve as commissioner of the Commodity Futures Trading Commission. I would like to thank Senator Bennett for his support and willingness to introduce me to the Committee. As a Michigan native, I would also like to thank Senator Stabenow for her support as well.

Before I begin, I would take you up on your offer to introduce my family. I am joined by my wife, Marissa, three daughters, Kelsey, Claire and Macey, and I am joined by my parents, John and Bev O'Malia. I appreciate their——

Chairman LINCOLN. Why doesn't everybody stand up so we can greet you as well?

[Applause.]

Mr. O'MALIA. I am honored to be nominated by the president to serve on the CFTC. Given the fact that this country has experienced the worst financial meltdown since the Great Depression, I recognize the enormous responsibility of this office. Like everyone in this nation, I too have lost value in my home, retirement and college savings. I am sensitized to the hardship this crisis has caused families across the country.

This experience reinforces my strong belief that our nation's financial regulators must be vigilant in their oversight responsibilities to ensure transparency and accountability in our markets. Furthermore, regulators must recognize the inherent risk associated with trading products which have contributed to the crisis and they must commit to doing all they can to maintain stability and security of these markets.

I believe the oversight of our financial institutions must be strengthened. I am committed to exposing the underlying risks and trading practices that might further destabilize our economy. For the past 6 years, I have worked in the Senate serving in the Senate Energy and Natural Resources Committee and the Senate Appropriations Committee. During this time, I have focused my work on energy policy with the goal of reducing our nation's dependency on foreign energy resources and expanding U.S. investments in clean energy technologies.

Over the past 3 years, the Senate Energy and Water Subcommittee has authorized and appropriated over $50 billion worth of self-financed loan guarantees. It has invested tens of billions of

dollars into research and development to support the deployment of clean energy technology. Transformation of our energy sector is more than Federal research assistance. It requires billions of dollars in new investment that will only occur if investors believe that markets are stable, provide reliable price transparency and offer the opportunity to hedge their commercial risks.

Prior to joining the Senate Energy Committee, I spent 2 years in the electricity sector. This experience provided an invaluable education regarding the devastating impacts of flawed market design and illegal trading behavior can have on consumers. As a result of this experience, I am resolved to prevent this catastrophe from being repeated.

I joined Mirant in February 2001 as the director of Federal affairs, focused on Federal energy policy. I did not work for a trading desk or for a business unit that managed generation assets. By the time I arrived, it was already apparent the California electricity market was dysfunctional. California had experienced a difficult summer with record energy prices and a blackout in June of 2000.

By November of 2000, FERC had determined that the California market was flawed and making it possible for manipulative trading behavior to cause an imbalance in supply and demand and made the determination that electricity rates were unjust and unreasonable.

In response to the trading behavior uncovered in 2001, I worked with Mirant's chief risk officer and five other energy companies to establish the Committee of Chief Risk Officers. This organization was created to prevent and avoid the trading abuses used by some in the industry to manipulate California and western energy markets.

The CCRO established industry wide trading protocols, improved price disclosure, encouraged clearing and standardized contracts and established a corporate trading code of conduct. These standards would give regulators, consumers and investors a better view of the business and operations of these companies. I do recognize that many of the same reforms implemented by the chief risk officers are now embodied in the financial overhaul proposed by the administration, but on a larger scale.

Both efforts seek to improve transparency of over-the- counter markets, reduce systemic risk and set trading standards to reduce opportunities for excessive manipulation and speculation. A key component of both efforts has been the utilization of clearing to reduce counterparty risks and allocate capital more efficiently.

My experience reaffirms my strong belief that regulators are critical to ensuring that markets operate in a fair and transparent manner. To achieve this, regulators must be provided with the appropriate authority and tools to respond to the constant evolution, market behavior and products.

As I stated in the beginning, I am sensitive to the impacts the financial crisis has had on all families. I understand the consequences to all of us if the markets are manipulated and expose our financial system to greater peril. Drawing on my extensive energy background, I believe I can make a significant contribution to the Commission.

If confirmed, I will work with the other commissioners to ensure markets continue to offer consumers and producers a cost-effective hedge to their commercial risk. I will work to ensure the CFTC uses all the legal authorities to curb excessive speculation and prevent abusive trading practices, including fraud and manipulation.

I would like to thank the Committee for holding this hearing and considering my nomination. It would be an honor and privilege for me to serve on the Commission. Thank you.

[The prepared statement of Mr. O'Malia can be found on page 56 in the appendix.]

Chairman LINCOLN. Thank you, Mr. O'Malia.

Commissioner Sommers, welcome to the Committee.

STATEMENT OF JILL SOMMERS, NOMINEE TO BE A COMMISSIONER, COMMODITY FUTURES TRADING COMMISION

Ms. SOMMERS. Thank you, Madam Chairman, and congratulations to you on this historic day for you. I would like to take this opportunity to introduce my husband, Mike Sommers, who is here with me today. I appreciate his support in being here.

Chairman Lincoln, Ranking Member Chambliss and other distinguished members of the Agriculture Committee, I am honored to be nominated by President Obama for another term as commissioner of the Commodity Futures Trading Commission. I have been in this position since August of 2007 and it has been a true privilege to serve the American public as a regulator of U.S. commodity futures and options markets.

During my career, I have had the opportunity to work on agricultural issues for Senator Bob Dole, for a regulated derivatives exchange, as well as for the trade association representing participants in the privately negotiated derivatives industry. I believe this unique experience gives me a diverse view of risk management issues and the knowledge to help implement our core mission at the CFTC.

The Commission applies a strong regulatory oversight program that includes market surveillance to detect and prevent manipulation, as well as ensuring the financial integrity of the clearing process. This risk tailored approach to regulation is complimented by strong enforcement, as evidenced by over $2.8 billion worth of penalties and restitution assessed in actions brought by the CFTC since the year 2002.

This regulatory regime has enabled the futures industry to experience enormous growth over the past decade. In 2000, the U.S. exchange traded volume was a little over 500 million contracts. In 2009, the volume has increased 180 percent to almost 3 billion contracts. Even with that growth, the regulated futures industry did not endure the loss of any customer funds during the current economic turmoil due to the failure of a futures commission merchant.

Although the regulated futures exchanges and FCMs have performed well throughout the financial crisis, there is widespread belief that the CFTC's regulatory authority should be extended to cover the trading of over-the-counter derivatives. There is broad consensus that more transparency must be brought to these markets.

The current commission is unified in support of comprehensive regulatory reforms, including full regulation of over-the-counter markets. This regulatory framework would cover both the OTC derivatives dealers and the OTC derivatives markets in which they trade.

I believe that we need to enhance transparency and close gaps to improve the regulatory structure. The CFTC has undertaken a number of initiatives over the past year to strengthen our regulatory oversight and enhance public confidence in the markets we regulate.

Under the leadership of Chairman Gary Genzler, we have held hearings to review the application of and exemptions from position limits. We have convened unprecedented joint meetings with the Securities and Exchange Commission to discuss issues of regulation, harmonization and finally, we have implemented two new transparency measures by further disaggregating our Commitments of Traders report and publishing an updated report, Index Investment Data, based on the information we have been receiving through our special call authority.

It is a very challenging time for the Commission and the questions surrounding all of these issues are enormously complex and require thoughtful resolutions. As a commissioner at the CFTC, I believe there is a historic opportunity to reshape the regulatory oversight of financial markets.

If confirmed by this Committee and the U.S. Senate, I will work hard to ensure that the CFTC continues its role of protecting the integrity of the markets while addressing the concerns about the regulatory structure. It is the responsibility of the Commodity Futures Trading Commission to defend the crucial risk management and price discovery functions for American farmers, ranchers, end users and all market participants around the globe.

Thank you.

[The prepared statement of Ms. Sommers can be found on page 61 in the appendix.]

Chairman LINCOLN. Thank you, Commissioner. We will start our 5–minute round of questioning and I will kick that off and then kick it over to my colleague, Senator Chambliss.

But first of all, Mr. Chilton, you have been an outspoken proponent for changes to our current regulatory system. Do you believe that the Treasury proposal regarding the OTC or the over-the-counter derivatives is sufficient to address these regulatory gaps, and if not, what needs to be done to improve upon the Treasury's white papers?

Mr. CHILTON. Thank you, Madam Chair. Yes, I do believe the Treasury proposal is a good proposal. Right now we can't see a whole segment of the market and it does impact price on the regulated exchange, so we are sort of operating with one eye closed.

My view used to be that I wanted to get the information from OTC and then make a determination as to whether or not it was price discovery and we should regulate it. Now I think it needs regulation. Contrary to some of my colleagues and to some senators, I am not 100 percent sure that we need to look at every individual bilateral trade.

Should I care as a regulator about a relationship between a contract, for example, between a farmer and a co-op? I guess if we had unlimited staff that might be interesting, but I am more concerned with the large trades that can impact price and for me, it is really important that whatever we do, if we do something on position limits, that we keep that in mind.

I am not suggesting that we need to get the regulatory authority to oversee the OTC market before we act on position limits, but we definitely need to be thinking about it in a panoptic fashion to ensure that we are making the right balanced and appropriate calls.

Chairman LINCOLN. If the Treasury proposal were to pass this year, what would be the greatest challenges for the Commission?

Mr. CHILTON. Well we got a big staffing challenge in general and I do want to thank the Congress, particularly those that are appropriators also, for helping us out a lot. The SEC has about 3,500 folks. We have about 500 folks.

The market capitalization, the CME group, is larger than the New York Stock Exchange, so we are doing a lot with a little. You know how things work in Congress; you get the authority then you get the people to do it. So there is always that gap 8 months after you pass something, then we are up here explaining why we have not implemented it yet.

So I think the biggest challenge will be actually getting the bodies on the ground to do the work. But I am confident we can do it. We have a great leader in Chairman Genzler and I am sure we can make steadfast progress.

Chairman LINCOLN. Ms. Sommers, Commissioner Sommers, I want to thank you for the work that you have done on the Commission as well. You might, if there is any of those two questions that you would like to comment on in terms of the Treasury's proposal and what you all need most over at CFTC, and then also you might just touch on the career you have had working with both the Chicago Mercantile and the International Swaps and Derivatives. Any of the roles that you had there both with CME and ISDA, how that experience really informed you or informed how you approached the work you do as a regulator.

Ms. SOMMERS. Thank you, Madam Chair. I agree with Bart and believe that the Treasury proposal includes much needed regulatory reform for our financial markets. Two of the main issues included in the Treasury proposal would give the CFTC jurisdiction over the OTC derivatives dealers and markets, along with other regulators, would bring regulation to those markets. It also includes encouragement for central counterparty clearing, which is very important. It brings market discipline and the daily market to market to those transactions.

So I think both the clearing and that jurisdiction is important for us. My experience from both the regulated exchange environment, as well as the experience I have had with the swaps industry, I think is especially important right now. I do support the Treasury proposal's inclusion of jurisdiction over those OTC markets, and I believe for the CFTC to be able to bring transparency to the public about the markets that we regulate we need the transparency from those markets.

Chairman LINCOLN. Great. Mr. O'Malia, just briefly, you did spend, and you mentioned in your opening statement that you spent part of your career working with Mirant Corporation, of course, at a very difficult time in California, and I know there have been recent news articles describing Mirant as an energy supplier and trading outfit that may have contributed to some of those problems that plagued California; would really like to just hear from you.

I think you have great—I believe that you have valuable experience and great experience to be able to bring to the Commission. Would like to ask you to—maybe you would give us an opportunity to discuss the commitment to the Commission and the mission of the Commission in protecting these markets.

Mr. O'MALIA. Absolutely. The California experience, my time at Mirant, was an important lesson. It was a painful lesson for obviously Western energy markets and consumers of California. Many companies were—went into bankruptcy as a result of the markets and it was clear that manipulative trading behavior was employed to take advantage of those markets.

The rules were not right and that exposed the weakness to it. There was not adequate oversight and there was not adequate regulation. I bring that experience to this position and with my eyes wide open and vow never to allow those type of behaviors to begin or occur in those markets and any of the markets.

I think the discussion about the financial overhaul is consistent with many of the reforms the industry tried to make when it was clear that changes had to be made. There was lack of confidence. There was manipulative behavior and they had to put a stop to that. We need to continue those and strongly enforce those.

There is no room for manipulative behavior in any of our markets and I will ensure that I will be very effective and enforceful of those efforts. The Treasury proposal would expand oversight of OTC markets where there was no oversight and we should encourage the use of clearing houses. As both commissioners, it brings a spotlight on it. It reduces systemic risk and everybody has a clear picture of what is going on in those markets and that is very important to see what is going on in those markets.

Chairman LINCOLN. Great. Thank you. Senator Chambliss.

Senator CHAMBLISS. Thank you, Madam Chairman, and I would first like to ask that three letters in support of Mr. O'Malia's nominations from Senators Murray, Bingaman and Dorgan to you and I be submitted into the record.

Chairman LINCOLN. Without objection.

[The information referred to can be found on pages 213-215 in the appendix.]

Senator CHAMBLISS. Mr. Chilton, I appreciate your comments relative to position limits and as you know, I have had a serious concern about what a change in position limits will do relative to not just our domestic market, but the reaction that we might have overseas.

I understand that Chairman Genzler was in Europe last week discussing the need to harmonize a new structure for over-the-counter derivatives trading, but unfortunately, I have seen little coverage of the European regulators' interest in enforcing more

stringent position limits and I know we will talk more about this later. But in fact to the contrary, I note that Commissioner Dunn recently expressed concern that other regulators abroad may not see the need to tighten position limits.

Meanwhile, just the rumor that CFTC is considering tighter position limits and hedge exemption requirements for our own exchange transactions has already lead a large exchange traded fund to seek larger positions in the over-the-counter arena rather than conduct business on exchange. Certainly that is not the intended outcome.

You have suggested that we ought to apply aggregate position limits across OTC in exchange traded positions. But the proof now exists that large market participants faced with limitations will seek creative alternatives and I am concerned it might force them off to exchanges in Europe or elsewhere.

I mean, we may even see other countries develop mechanisms for trading over the counter. How do you propose that the U.S. responsibly apply position limits so as to avoid a migration of markets abroad?

Mr. CHILTON. Well let me say I agree with you 100 percent, Senator, that we need to be very careful how we do this. That is why I say that whatever we do, we need to do it in light of the OTC legislation or the regulatory reform legislation that I hope Congress will consider. It could have the effect, if we are overzealous regulators of moving it to less transparent markets or moving it overseas, that would be a perverse impact to what I think some of us think we need to do.

We have reached the right balance on the ags. As I say, by and large, they have worked pretty well. I know there are some issues that both of us share with regard to some of the specific Ag commodity markets, but by and large, these position limits have worked well for the ags and I think as long as we go into this in a balanced and reasoned way, we can do it so it will not move business off.

That is certainly not something I am interested in. With regard to the Europeans, I think you are right, they perhaps have not been as strong, but I can tell you one thing, Gary Genzler is not a shrinking violet and I know that he has had some pretty explicit conversations with them. I look forward to seeing something public from the Europeans.

But I think in general, as regulators, we sort of need to move in this direction. But we need to be careful, you are absolutely right, about how we go forward.

Senator CHAMBLISS. Both Chairman Genzler and Secretary Geithner and I have had conversations about the fact that we need to bring the Europeans on board. There needs to be some sort of international standard here and whatever we do with respect to the proposed changes in the legislation, obviously, we need to keep that in mind. You guys do not toot your horn enough, but I think it is an absolutely correct statement to say that because of the work in part that you all have done at the Commission from an oversight standpoint, as well as what is going on at the SEC, even though we have had some mistakes that have been made, the markets that you folks regulate did not fail. The markets worked and

Lord knows what would have happened in these tough economic times a year ago if we had seen the markets fail.

But you all did a good job in providing the necessary oversight to ensure that there was no failure and you need to be commended for that.

Mr. O'Malia, over the course of the past few months, we witnessed a breakdown in the financial system and we have heard a great deal about systemic risks. While there are certainly a number of factors that contributed to this situation, many have blamed the lack of regulation applied to the over-the-counter derivatives and some have suggested that regulators of securities and futures need to be authorized to do more.

Obviously we are now tasked with determining what additional authorities are necessary? Rather than tasking various regulatory agencies with duplicative functions and confusing market participants, we should seek to ensure an efficient coordination among regulators. If confirmed, how do you intend to work with other regulators, such as the SEC, to harmonize your respective functions?

Mr. O'MALIA. Both the SEC and the FERC are two agencies that deal with products before the CFTC. I am committed, obviously, to work with those agencies to harmonize the regs to the extent we can. The Treasury proposal did have a joint regulation on mixed swaps.

I think Chairman Genzler did get it right and said we ought to divide those along the lines of expertise and I would support his position on that to ensure that we do not have two regulators trying to solve one problem. Tasking those along the lines of experience makes sense to me.

Senator CHAMBLISS. Chairman Sommers, you currently chair the CFTC's Global Markets Advisory Committee and you have witnessed technological advances leading to a more global marketplace. Some have criticized this evolution in which foreign boards of trade now have greater access to U.S. traders and our U.S. exchanges have greater access to traders abroad.

Could you briefly explain how the CFTC and various foreign regulators coordinate in order to ensure appropriate oversights of the markets across oceans and the borders? I was a little more specific with Commissioner Chilton regarding position limits and how we are going to deal in this arena with our overseas traders and you can expand on that, if you will, please.

Ms. SOMMERS. Thank you, Senator. As you know, foreign boards of trade that wish to offer their products to either U.S. members of their exchange or other U.S. customers must come to the CFTC to get relief in order to offer those products to U.S. customers.

We, in considering this relief for foreign boards of trade, we look at the home country regulator and we look to see if the regulation applied to that foreign board of trade is comparable to what we apply in the United States. We also look to memorandums of understanding that we have signed with their home country regulator. The CFTC is a member of the International Organization of Securities Commissions and we sign a worldwide multi-lateral memorandum of understanding that creates standards and we use that MMOU as a basis for approving those foreign boards of trade as well.

And I think as we look forward on the issue of considering either imposing position limits on our specifically energy and metals complex or the exemptions from those position limits, that it is an issue of concern that we continue to work with our global counterparties to make sure that those are also issues that they are considering, because I do share your concern. If we impose those limits without having our global counterparties in lock step with us, we may have the perverse effect of driving business to other markets globally and making our U.S. regulated exchanges less competitive.

Senator CHAMBLISS. My time is up, but there is one other critical follow-up question I would like to ask you. I know we have a current relationship with the London Exchange on the trading, particularly for oil contracts, where they voluntarily provide us with certain information.

Let me address this to you and Commissioner Chilton. Are you folks satisfied with the information that you are getting from the London Exchange on these contracts?

Ms. SOMMERS. I think, Senator, that that is a perfect example of how well our foreign board of trade regime has worked. This year, we have made significant modifications to our memorandum of understanding with the UK FSA in order to address that linked contract that is listed on a foreign board of trade that is priced off a U.S. contract or settles to that U.S. contract.

We have made modifications to that memorandum information sharing, as well as with the enforcement authorities, so we do get large trader data on a daily basis from that exchange, as well as have other information sharing agreements and enforcement availability with that agreement.

Mr. CHILTON. Yeah, I would echo what Commissioner Sommers said. I am satisfied. We get it on a daily basis. It is in real time. It is in the same format. We actually print it in our Commitment of Traders report, so it is very helpful.

It would not bother me if it is codified. Now it is this thing we call a no-action process and it is a little convoluted. As Commissioner Sommers said, we have worked it out and I think everything is fine now. But I would not mind having—if we are doing—if you all are doing regulatory reform, having it codified by a statute. But it is working well now, Senator.

Senator CHAMBLISS. Thank you.

Chairman LINCOLN. Senator Lugar.

Senator LUGAR. Thank you, Madam Chairman. Commissioner Chilton, I think you were present perhaps about a year ago when we had a hearing of this Committee. On that occasion, we had a witness that tried to describe to the Committee what was occurring in the financial crisis.21Anecdotally, you went through the situation where the local banker was out there trying to get a lot of the mortgages on the books. Having collected all these, these were packaged. It was sent on to another bank, sometimes sold, and folks were out of it altogether locally, packaged again and moved on somewhere else.

Now finally, at a level of some bank or institution, it had a lot of these packages. It was explained you go to a place like AIG to get insurance and you get insurance through derivatives, let's say. So then we, as amateurs, sort of press, what kind of derivatives are

these? Well some look fairly straightforward. This is an insurance derivative. But then one witness add, but you could also express opinions.

And so he said, is this like an opinion poll in addition to an insurance policy? He said, well not exactly, but for example, you might bet on the fact that the banking system of Pakistan was going to fail and as a result, even though it has nothing to do necessarily with what the flow had been thus far, if it failed. You might get a payoff, or as some of the other insurance situations, it might not work out, including maybe AIG being able to pay you.

This came as a surprise to many members as to what kind of statement or ink on paper, and so we got into this situation that these derivative functions are not all ones in which you know the parties, the party or the counterparty, or as a matter of fact, we then had, some of us, visits from bankers who said, now as you begin to think about regulation, do not pin this down. We need to have a lot of creative space to write these situations. They are not all the same.

We are talking about clearing not identical contracts, very different. This is not very reassuring to those of us who are citizen amateurs of this quite apart, I think, from the financial community, and we are still, as you pointed out, although CFTC always was thought of by many as having agriculture commodities, the financial instruments became very large in your situation quite apart from the energy situation, which in the last reauthorization of CFTC somehow got omitted or had not the same weight.

This is all the beginning of a question. What in the current CFTC proposals or laws that Treasury is offering, or anybody is offering, finally brings us into some clearing function of counterparties where we actually have, even complex as it is, something that is relatively uniform as opposed to totally creative in ways that—once again creative bankers, financial people and so forth, in a search, in our American free enterprise system for wealth, blow the whole thing out; can you give us some reassurance?

Mr. CHILTON. I can give you some, Senator, although I am not going to vouch for that entire situation you described, because I had some of the very same concerns. It was the Commodity Futures Modernization Act, which codified that we would not be regulating swaps and these credit default swaps that you are talking about really metastasized throughout the banking and the trading community. It would have been difficult to follow even if you re regulating them, but certainly unregulated they lead to many of the problems that you describe, in particular AIG.

It is all hindsight now, but I venture to say that if credit default swaps were regulated, that may not have happened. And so I think it is one of the things that you described, Senator Lugar, that was probably a mistake in CFMA. In my view, there are many good things in CFMA. It has allowed the free market to flourish, to be innovative and look around the corner and be competitive. But that is one of the things that I think was an inadvertent policy.

The administration has called for regulation of these types of swaps. It has sort of left the door open.

to who would regulate them, whether or not it would be the CFTC or the SEC. In my view, as a CFTC regulator, it would be

easy to just say well we should have it. But to be honest with you, I just care that it is regulated. I just want to make sure that somebody is looking at this.

We can do it. Again, we need staff to do it. And we can do a competent job, but I think for American consumers, it is just important that somebody who comes before you all, or another committee who is responsible for this type of thing, looks at it very hard and carefully and always has in the back of their mind, how are we protecting consumers? How are we protecting markets?

Senator LUGAR. Well this begs then my second question and that is, perhaps you do not have control of this now or oversight. Maybe you will. You certainly do have all of the energy situations and the Ag is a very small part, as you have said.

Now last year at this same time, the complaint was made that the staff problems at CFTC, even with what you had, were totally inadequate in terms of number of people. There were senators piling on about speculation and all the difficulties and you and the chairman, what have you, were saying well, give us some people.

Now you intimate you do not have the people yet. I am trying to sort of fathom where in the system you get the people. Have you requested them? Are they in somebody's appropriation authorization bill or anyone in the stream at this point?

Mr. CHILTON. Yes, sir. We have—I cannot give you the specific numbers, but I said we were at 500 in my oral remarks. I think we are going to actually be closer to 600 like today, maybe 599, and we have a request in for more. I cannot give you the exact amount, but we are moving forward. We are now at the Financial Services Ag—or the Financial Services Appropriations Subcommittee.

But with the support over the years, we have done a lot better. But as I say, we have a big workload out there and depending upon what happens with some other issues, for example, carbon trading, if that ends up passing and we have that, that could be the largest commodity market, physical commodity market in the world.

And so I appreciate the question and appreciate the support, Senator, and we are going to continue to need it as we go through the appropriation cycle. But we have requested it so far and I think we are moving in the right direction.

Senator LUGAR. Thank you. Thank you.

Chairman LINCOLN. Senator Cochran.

Senator COCHRAN. It occurs to me, Mr. Chilton, listening to your testimony and expression of concerns about the inadequacy of the power or authority of the CFTC, that you are making an argument for additional definitive powers and responsibilities that would be defined by Congress and enacted so that you could do the things that you are saying ought to be done.

Is there an issue now between this agency and other agencies or departments of the government where they are also seeking that kind of definitive acknowledgement of power and responsibility? What is the state of play in the definition of legal authority?

Mr. CHILTON. Well with regard to what Senator Lugar was asking with regard to clearing and swaps, particularly credit default swaps that were $55 to $60 trillion, I mean just a monstrous number, the SEC is also interested in that and really I think the ad-

ministration deserves to be commended by coming out with such a strong proposal and doing it fairly on.

But in all candor, they punted on the question of whether or not it was going to be the jurisdiction of this Committee or the Banking Committee and again, it would be easy to say turfs, that we should do it here, but as long as it is done. And so I will leave those important decisions to you and other senators.

Senator COCHRAN. That is reassuring, and that you are not about to go out and start regulating and start bringing in people and start finding violations of the law as a commission, as an administrative body, without the color of that authority.

Mr. CHILTON. Yes.

Senator COCHRAN. You do not have that in your background as an inevitable conflict that you are going to have if you are——

Mr. CHILTON. No, I do not, Senator. I mean, I think there are some things we can do through the rulemaking authority with regard to position limits and hedge exemptions, but again, we need to do that with a view toward the unregulated markets and we need to do it, as I was discussing with Senator Chambliss, in a way that does not send markets—it does not send current regulated traders to unregulated markets or does not send them overseas.

So we need to be very careful about this, but my colleagues are smart folks. We are going to get this right. We are going to do the same types of things that you all do every day and make sure that we are not losing markets and make sure that we are protecting consumers.

Senator COCHRAN. Well, do not use us as a role model.

Mr. CHILTON. I know you too well, Senator. You have done a lot of good work over the——

Senator COCHRAN. Individual senators are different from the body as a whole.

[Laughter.]

Senator COCHRAN. Thank you very much for agreeing to serve in these positions. This is going to be a very challenging period, I think. I think the Committee will do well to follow very closely how all this plays out. Thank you.

Chairman LINCOLN. Be assured, Senator Cochran, we will be, as a Committee, following very closely in terms of what the responsibilities—and you are right, it is a tall order at this juncture in our economy and in the world economy, so we will definitely be following closely.

Senator Thune.

Senator THUNE. Thank you, Madam Chair, and congratulations to you on your historic accomplishment, first woman and first Arkansan as the chairman of this great Committee. Your style and approach to dealing with issues will serve this Committee and its members and the entire Senate very well, so congratulations and just do not forget about us northerners up there. We will bring you up to South Dakota to give you a chance to visit somewhere soon.

Senator COCHRAN. We learned our lesson.

[Laughter.]

Senator THUNE. All right. On a more serious note——

[Laughter.]

Senator THUNE. Let me, if I might, just pose a question to whomever, maybe to Commissioner Chilton to start with. But if the Congress were to require mandatory reporting for all OTC transactions, what additional resources would the CFTC need to manage such a large amount of data? And maybe Commissioner Sommers could answer.

Mr. CHILTON. I do not have an exact number, Senator Thune, but it seems to me that, as I said, 3,500 or thereabouts with the SEC, 500, 600 at the CFTC. I would like to see us up in the 700 full-time equivalent positions in the not too distant future, and that is without anything with regard to carbon.

So we could use another 100 people sort of pdq and I think we need to continue to request more and ramp up. You know, there is a limit to how large we should get certainly. We do not want to be overly bureaucratic, but right now, as Senator Lugar described, we have a lot of challenges that we just are not up to, and it is not because we do not have dedicated and resourceful and professional staff; we do.

Senator THUNE. Anything to add?

Ms. SOMMERS. Senator Thune, I think we have to continue to consider that the OTC markets are large and they are very complex and they are markets that the CFTC does not have experience in regulating. So it is something that will be an enormous task for us.

But as Commissioner Chilton noted, we have hired, I think, almost 100 people over the last year and if things progress the way that we hope with the budget this year, we will be able to do the same next year, and that will be very helpful for us, not only with actual bodies on the job, but with advances in technology to help us survey all those markets as well.

Mr. O'MALIA. Senator, if I may, the people are important. Working in the appropriations, we have had the opportunity to work with our national labs and see what technology can do for us, specifically world class computing. It seems to me we also—there is a technology element that we have to stay ahead of the markets, or at least keep up with them. The investment in that category has been woefully inadequate.

We really need to focus on taking advantage of the high speed global nature of these markets and avail ourselves to the technology. If confirmed, I would be happy to take that effort on to find out what opportunities we can do to keep up. Keeping up would be a good start.

Senator THUNE. One of the—if climate change legislation were to pass, it would allow third parties like banks and foreign nations to participate in the carbon market. In other words, you would have third parties that are not directly associated with carbon. Offsets would be able to purchase these credits on an exchange.

In your opinion, does that leave the carbon market open to undue influence or manipulation and is it possible under a scenario like that that a third party investor or group of third parties would be able to drive up the price of carbon by purchasing large amounts of allowances or available carbon credits?

Mr. CHILTON. It is a concern that has been raised particularly recently in the last several months that I have heard. You know, we

have, like I say, professional staffs. I think we can do the regulation of this, as long as we have the authority.

Some have argued that the smaller the markets, the easier it is to regulate and while that is true, I would rather have deep liquid markets with lots of trading and you go back and forth between people at the agency center. Some will say it is just another contract. It is just like crude oil.

It has its distinct difference in that the government would, under the legislation proposed, actually control the allocation. And so that is different. But by and large, I am not worried about the size of it as long as we have the resources to police it. I think we can do a good job. And as I say, I think it can have an enormous benefit not just for whatever it can do for the environment, but I think it can add to the economic engine of our democracy, and that is not a bad thing.

Senator THUNE. What role would you see speculators playing in a carbon market and how would you define a speculator? How would you define excessive speculation?

Mr. CHILTON. Right.

Senator THUNE. I mean how would you go about——

Mr. CHILTON. I like speculators. Too often I think speculators get branded as sort of a dirty word. We are going to need people involved in these markets to ensure that they work and I think if you only have commercial participants, the markets will not function as efficiently or as effectively as a lot of us would like.

But we will need to be careful to ensure that there may be—it may be appropriate for example, to put certain limits. Just like we were discussing position limits in the energy and metals complex, I think that is probably appropriate for carbon, to avoid the very things you are asking about.

Senator THUNE. Mr. O'Malia, you are the new guy. What do you think about derivative products being forced onto regulated exchange?

Mr. O'MALIA. We do—the administration has put out a very comprehensive proposal and I believe the transparency and reporting requirements to move more of these products into regulated markets is an important move. Increase, avail ourselves to clearing would be critical, but we do not want to shift everything—standardize everything for the sake of standardization.

We need to make sure that these actually pose a risk of manipulation or threat and that they could impact the overall pricing of commodities. And I agree with those principles. More trading on regulated markets would be helpful. We will be able to see it. We will have clear—it will be priced to the market. They will understand it better and it will be more useful.

Clearing reduces risk and that is helpful. We do not want to make this too costly, however, to make sure the people—everybody who has commercial risk cannot use these. They have to be available.

Senator THUNE. Commissioner Chilton, Commissioner Sommers, what reaction have any of you received from market participants about the administration's proposal to impose capital requirements on dealers of OTC derivatives?

Ms. SOMMERS. Senator, I think that the capital requirements provisions that is in the Treasury proposal is consistent with the capital requirements that we look at in the futures markets. We are also moving forward in the futures markets to impose additional capital requirements on the FCMs in our markets to make sure that is part of our job, to make sure that that risk surveillance and part of what an FCM has in the clearing process is adequate and it is something that we are very mindful of. I have not heard any of the dealers or market users express any concerns about this.

Mr. CHILTON. I agree with Commissioner Sommers and only echo what some of the other senators said and that is that these markets really were not at the heart of the credit crisis and the recession, and you all should take great pride in that.

I mean, we have worked pretty well. This is just a good time for us to think about other sideboards that we may need to put on the law and rules and regulations where appropriate to make sure we continue down that path.

Senator THUNE. Madam Chairman, thank you and I would like to be able to be here for our next panel. I want to hear Mr. Avalos tell us how he is going to get the Ag community united on animal I. d., but I probably will not be able to be around for that.

So thank you all for your willingness to serve, of all of our nominees today, and thank you, Madam Chair.

Chairman LINCOLN. Thank you, Senator Thune. Do any of you all have additional questions for this panel?

Well before I dismiss them, I would like to—one last item for the nominees. As you know, Senator Cantwell has played a leadership role in the Senate with regard to commodities futures regulation and has some questions that I will be submitting for the record.

I know all of us look forward to your responses there and you will have ample time to be able to respond to that and to Senator Cantwell's questions. So thank you again. I echo the words of my colleagues. Thank you for offering yourself in terms of public service. We have a lot of challenges ahead of us.

We are going to be looking to the CFTC for great guidance and opportunities to really grow our economy, but do so in a way that minimizes risk and certainly ensure confidence in the American public. So we appreciate your being here today and we appreciate your willingness to serve.

We will excuse this panel and we may ask the—invite the second panel to come before us.

Senator CHAMBLISS. Madam Chairman, while this panel is coming up, let me just recognize one of my staff that you know well whose probably last hearing is going to be today. Vernie Hubert has been a member of my staff the whole time I have been here in the U.S. Senate and I first got to know Vernie when he worked for a Democratic congressman——

Chairman LINCOLN. I did too.

Senator CHAMBLISS.—Charlie Stenholm, who was such a great advocate of agriculture. I had the pleasure of working with Vernie on both the 1996 Farm Bill and the 2002 Farm Bill and then obviously this past year over here. Vernie has just been such a great asset to the Committee for so many reasons and a particular asset to my staff because of his knowledge of agriculture, his commit-

ment to ensuring that we do the right thing for farmers and ranchers.

He is a guy that we are truly going to miss here. I did not want to let today go by. We have encouraged him and drug him back over here. I would not let him go home last year as soon as the Farm Bill was completed and he has graciously agreed to stay on here this past year. I just want to recognize Vernie as a true asset both to me and to the Committee and particularly publicly to thank him for his service.

Chairman LINCOLN. Well, Senator Chambliss, I would like to join you in that and I too first met Vernie when I was in the House. I would say that his leaving at this juncture is subject to the discretion of the chair.

[Laughter.]

Chairman LINCOLN. So I do not know, but if I am going to exert any powers, this might be the place to do it.

Mr. HUBERT. Can I have you talk to my chairman?

[Laughter.]

Chairman LINCOLN. Well we do appreciate the incredible work that Vernie has put forward on behalf of American agriculture and he has done a tremendous job. All I can say is, please do not go. But we are grateful to him, and grateful to him and grateful to you, Senator Chambliss, for having him on board. He was an enormous part of the negotiations that we had on the Farm Bill and was a real calming effort there and did a tremendous job of pulling people together and we appreciate it.

So I am still going to reserve my right as chairman to have a say in that, but anyway, I know your chairman and I know she will trump me, so nonetheless.

If I can ask this panel to please stand. I am not sure if we all got the swearing in, but I am not going to mess it up on my first watch, that is for sure. If you will raise your right hand.

Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. AVALOS. I do.

Mr. SHERMAN. I do.

Mr. SPEARMAN. I do.

Chairman LINCOLN. Great. Our mandatory question, do you agree also that if confirmed you will appear before any duly constituted committee of the Congress if asked?

Mr. AVALOS. Yes.

Mr. SHERMAN. Yes.

Mr. SPEARMAN. Yes.

Chairman LINCOLN. Great. Thank you. Thank you, gentlemen, for joining us today. We appreciate it and appreciate your willingness to also serve. We would like to begin by your statements, if we may, and then we will enter into our questioning.

Mr. Avalos.

STATEMENT OF EDWARD M. AVALOS, NOMINEE TO BE UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS AND MEMBER OF THE BOARD OF DIRECTORS, COMMODITY CREDIT CORPORATION

Mr. AVALOS. Chairwoman Lincoln and ranking member.

Chambliss, members of the Senate Committee on Agriculture, Nutrition & Forestry, thank you for the opportunity to appear before you today.

Chairwoman Lincoln, I also would like to congratulate you on your new assignment to chair this Committee. I know that the folks back in Arkansas are really proud of you.

Chairman LINCOLN. Thank you.

Mr. AVALOS. And also, this being your first hearing for this Committee where you are in the leadership, I am honored to be a part of this historic event. I am extremely grateful to President Obama for nominating me and Secretary Vilsack for his support.

If I can, Madam Chair, I would like to introduce members of my family.

Chairman LINCOLN. Please do.

Mr. AVALOS. I think I am going to read it, and then they can just—anyway, I have my better half, Anna Bee, from Mesilla, New Mexico; my daughter Alexandra and her fiance, Tom. They are from Long Beach, California. My daughter Megan and her fiance, Mark, from Phoenix, Arizona; and of course, my son, he is my fishing and hunting buddy, Russell, from Las Cruces, Mexico. I also have quite a few friends that came all the way from Las Cruces, well actually from all over New Mexico, to be here with us.

Chairman LINCOLN. That is wonderful. Please stand so we can welcome you to the Committee.

[Applause.]

Chairman LINCOLN. That is quite a cheering squad.

Mr. AVALOS. I almost have a basketball team.

Chairman LINCOLN. That is right.

Mr. AVALOS. Madam Chair, members of the Committee, it really is an honor to be nominated to serve as the under secretary for marketing and regulatory programs at the U.S. Department of Agriculture. The mission includes the Agricultural Marketing Service, the Animal and Plant Health Inspection Service and the Grain Inspection Packers and Stockyards Administration.

Each of these agencies are extremely important and contributes to benefit the agricultural industry all the way from the producer through the shipper, the processor, the retailer and on to the consumer.

I grew up on a family farm in the Mesilla Valley in Southern New Mexico. At an early age, my parents, Adolfo and Eva Avalos, they instilled a very strong work ethic which I have followed through my entire career. My 30–plus years of experience in agricultural marketing have prepared me for my role as the under secretary. I have worked with the agricultural industry to address regulatory, marketing, production and other issues and challenges in both the national and international arenas.

I am a firm believer that the U.S. agricultural sector has been and continues to be the backbone of this country, providing food and fiber to consumers and end users in the U.S. and also in markets all over the world. During my career, I gained considerable experience in both the international and domestic arena. I have worked to support the production and marketing of livestock, specialty crops, value added products to the implementation of trade missions, dialog and promotion.

Also I have worked with diverse stakeholders to develop and establish and maintain markets for sheep, cattle, goats and numerous fruits and vegetables in Mexico, onions and processed foods to Canada, and most recently, the pecan growers' success in creating an export market in China.

In the domestic arena, I have been very successful in establishing markets for chili peppers, onions, potatoes, watermelons, pumpkins, pecans, beans and alfalfa. I have worked closely with producers to support the production of crops that the industry demands. I worked with the distributors for timely delivery of goods and with retailers to showcase, promote, sell, educate and inform the consumer utilizing brochures, recipes and other promotional and educational tools.

In addition, I have worked to advance Indian agriculture, including working closely with the Navajo Agricultural Products Industry. This is an 85,000–acre farming enterprise located on the Navajo Nation in the four corners area of New Mexico and with some of the Indian pueblos in Northern New Mexico to bring back traditional agriculture to their tribes.

I believe it is important to create an atmosphere of collaboration and foster good communication through agriculture production. I am enthusiastic about opportunities to promote fresh and local availability of products, more farmers markets, trade organizations and better connecting the American public with their food supply.

As a result, I have established an effective and informative network of growers, shippers, trade organizations and other stakeholders throughout the country. I have worked closely with the North American Agricultural Marketing officials, the National Association of State Departments of Agriculture and the Western United States Agricultural Trade Association. This network provides me with needed input on issues and trends within the food, agricultural and livestock industries.

If confirmed as the under secretary for marketing and regulatory programs, I will emphasize providing oversight of the three agencies and addressing the concerns of agricultural boards and commissions. If confirmed, I look forward with enthusiasm to stimulating employee morale and working with the many fine public servants which are assigned to my area, as well as the other agencies within USDA.

I am strongly committed to civil rights at the department and will work hard to ensure USDA's employment practices will not tolerate any form of discrimination, but instead will create a positive environment that celebrates and draws upon the strength of USDA's diverse workforce and consumer base.

If confirmed, I am committed and dedicated to working with Secretary Vilsack and this Committee to address and resolve the many concerns and difficult issues that are facing the food, agriculture and livestock sectors of this country. Building on my experience with the farmers, with the ranchers, dairymen, with the shippers and brokers, the food processors, the distributors, retailers and consumers, I will provide the leadership and guidance needed to implement the Farm Bill and carry out the mission of USDA.

Thank you for your consideration and I am happy to respond to any questions.

[The prepared statement of Mr. Avalos can be found on page 48 in the appendix.]

Chairman LINCOLN. Thank you, Mr. Avalos.

Mr. Sherman.

STATEMENT OF HARRIS D. SHERMAN, NOMINEE TO BE UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT AND MEMBER OF THE BOARD OF DIRECTORS, COMMODITY CREDIT CORPORATION

Mr. SHERMAN. Thank you, Madam Chairman. It is a great honor to be here before this Committee today considering my nomination for the position of under secretary for Natural Resources and the Environment. Let me add, Madam Chairman, to the chorus of congratulations to you. I very much look forward to working with you and all of the members of the Committee.

I want to thank my senator, Senator Bennet, for his very kind words of introduction. He is doing a wonderful job with our national forests and our conservation programs, so I appreciate his kind words. And although I brought a somewhat smaller cheering section for me, I wonder if I could introduce my family.

My daughter, Jessa Sherman, from Los Angeles; my brother, David Sherman, from Denver; my sister Barbara Kailey, from Denver; and my niece, Shawn Kailey Reagan, from Los Angeles. If you could all stand up.

[Applause.]

Mr. SHERMAN. Several weeks ago when I received the news that President Obama had nominated me, I was deeply humbled by the honor, but also by the degree of responsibility that accompanies the position. I fully realize that the challenges ahead will not be easy, but it is an extraordinary opportunity to do good for our country.

If confirmed, I promise to use my strengths, energy, commitment and good judgment to advance the conservation and public land programs that will fall under my jurisdiction and I promise to work closely with you and the other committees of Congress as we go forward.

My interest in overseeing the Forest Service and NRCS stems from a lifetime of experiences with public lands and conservation programs. As a child, my parents took me to the mountains outside of Denver where we would camp, hike, fish, ski and jeep. These experiences left an indelible impression on me of the grandeur and the importance of our national forests.

Later I have twice had the privilege of serving under two Colorado Governors, Governor Richard Lamm and Governor Bill Ritter, as the director of the Colorado Department of Natural Resources and I have had the opportunity of working on a daily basis with the Forest Service and other Federal land management agencies on very interesting, complex resource issues. Between these two stints as DNR director, I have represented as an attorney both public and private sector clients in their dealings with Federal land management agencies.

These experiences, combined with earlier work I did with the State Soil Conservation Service, and my later work with many land trust conversation organizations, have given me a background that I believe will serve me well in this new job. Looking forward, there

are tremendous challenges regarding our forests, both Federal and private, and the conservation programs associated with farms and ranches throughout the country.

On the forestry side, many forests are in trouble due to past fire suppression, increase in fuel loads and changes to our climate. As a result, many forests are far more vulnerable to catastrophic fire, disease and invasive species, often in epidemic proportions, such as the situation that we face in Colorado where we have several million acres of dead trees due to Pine Beetle kill.

We are witnessing far more frequent, intense fires. Combining these factors with a growing human population influx within or adjacent to our public and private forests, it is clear that we have a very challenging situation ahead. How we protect our growing communities from fire danger, how we protect the watersheds within our forests that supply drinking water to much of our population, how we protect wildlife species that rely centrally on these forests, and how we ensure that our forests play a critical role as carbon sinks is a herculean responsibility.

I believe that Secretary Vilsack's emphasis on restoration of our forests, both Federal and non-Federal, in a manner that addresses climate change, environmental protection, identifies new markets for wood products, creates jobs and sustains rural communities, provides an excellent framework for moving forward.

It is also important that we take a holistic approach to land conservation. On the NRCS side of the ledger, I have much to learn, but I am very excited by the mission and the scope of the agency's charge. Conservation of private working lands plays a significant role in protecting water resources and wildlife habitat, creating jobs and providing economic opportunities for rural America.

NRCS's watershed protection program helps communities from floods like those that we have just seen in Georgia. With these comprehensive programs, on the ground expertise and powerful technical tools, NRCS is well positioned to help private landowners play a significant role in addressing a variety of the nation's conservation challenges.

So in closing, let me just say, together the Forest Service and NRCS can make a major difference. Never before have agriculture and forestry been more at the forefront of current national policy issues. This is an urgent time to make progress. I am excited by the prospect of devoting my energies to these tasks.

I promise you that if confirmed, I will undertake collaborative efforts involving appropriate stakeholders to find common sense solutions and to come up with answers that will withstand the test of time, becoming durable, long standing and reliable programs. Thank you, Madam Chairman.

[The prepared statement of Mr. Sherman can be found on page 59 in the appendix.]

Chairman LINCOLN. Thank you, Mr. Sherman.

Mr. Spearman.

STATEMENT OF KENNETH ALBERT SPEARMAN, NOMINEE TO BE MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION

Mr. SPEARMAN. Thank you, Madam Chairman Lincoln and Ranking Member Chambliss and the distinguished members of the Committee. Senator Lincoln, congratulations on assuming the chairmanship of the Committee. I look forward to your leadership and working with you and Senator Chambliss and this Committee for the betterment of American agriculture.

I also want to thank Senator Nelson for his kind and generous introduction. He serves my home state of Florida in the U.S. Senate with honor and distinction. If confirmed, I will keep the trust of his example of public service to our country.

It is a privilege to appear before you today as President Obama's choice to serve as a board member of the Farm Credit Administration. This is a special honor for me and I am honored that my family also is here to share it with me. We all achieve success in life with the help of others. I am no exception, so I especially want to acknowledge my wife, Maria, my twin daughters, Michelle Springs of Orlando, and her sister, Rochelle Puccia, of Los Angeles, and my son, Dr. Kenneth Spearman, of Long Branch, New Jersey.

Chairman LINCOLN. Please stand so we can greet you.

[Applause.]

Mr. SPEARMAN. It is indeed an honor to be nominated to this prestigious position. I would like to share my background and tell you about the skills and experience I would bring to the Farm Credit Administration Board should the Committee confirm my nomination.

As an accountant, I was involved with the development of a public accounting firm in Chicago, Illinois and later worked as an accountant for a major accounting firm. From 1980 to 1991, I served as controller of the Citrus Central, Inc., where I was responsible for the financial management and reporting for this $100 million agricultural cooperative.

Until recently, I was director of internal audit for Florida's Natural Growers, Inc. There I was responsible for the design and implementation of the annual plan, which was used to appraise the soundness and adequacy and application of accounting, financial and internal operational controls.

I currently serve as an independently appointed outside director on the board of AgFirst Farm Credit Bank, a position I have held since January 2006. As you can see, my professional history, most of my career has been spent working for agricultural cooperatives. During my 28 years in the citrus industry, I gained a deep appreciation for agricultural producers and production agriculture.

As the members of the Committee are well aware, production agriculture, particularly Florida's citrus industry, is capital intensive and heavily reliant on access to a competitive credit. Add in the variables of the marketplace, world events, weather and many other unforeseen factors, and one can see that agriculture is a risky business.

Americans, and for that matter, people around the world should be thankful for the men and women who produce the food and fiber that we enjoy daily and without which we could not survive. As I

said, production agriculture is very capital intensive. Land costs, labor, equipment and fertilizer require long-term and short-term financing. It takes a variety of lenders to meet the credit needs of agricultural producers and their cooperatives.

The Farm Credit System, which is regulated by the Farm Credit Administration, is a very important part of that coalition of lenders required to finance American agriculture. Serving as an outside director of the AgFirst Farm Credit Bank board has given me a new and greater appreciation for the complexity and importance of agricultural and rural finance.

I believe my 28 years of financial experience working for agricultural cooperatives will serve me well as a member of the board of the Farm Credit Administration. I would utilize that expertise to ensure the safety and soundness of the Farm Credit System so that it continues to serve the credit needs of America's farmers, ranchers and their cooperatives.

In closing, I would like to thank the Committee for the important role it plays in the oversight and authorization of the Farm Credit System and its mission to meet the credit and related services needs of America's farmers and rancher.

That concludes my statement and I will welcome any of your questions. Thank you.

[The prepared statement of Mr. Spearman can be found on page 63 in the appendix.]

Chairman LINCOLN. Thank you, Mr. Spearman. I also note that we have another of the FCA board members here with us today, Nancy Pellett. Hey Nancy, welcome to the Committee. We look forward to working with you.

Just a few questions for this panel, if I may. Mr. Sherman, this administration is committed to reducing our dependence on imported oil and natural gas, coal-fired power plants in this country for our energy. Biomass can be converted into energy and fuel, reducing our dependence on fossil fuels and certainly our carbon footprint.

What role do you see USDA and the Forest Service playing in this new initiative, and as under secretary, how will you expedite the decisionmaking and the other processes necessary to get the expected results in a timely manner?

Mr. SHERMAN. Senator, I think both the Forest Service and NRCS have a very important role in exploring the possibilities of biomass to deal with the country's energy security. Obviously our forest products are potentially a form of energy that can be used to provide for heating materials, potentially for electricity, for fuels and I think the Forest Service clearly owes it to itself and the constituencies it works with to actively explore how we can use these materials to provide for potential future energy resources for the country.

And I think the same goes for NRCS. Clearly, there are all kinds of opportunities with our private forest lands and with the crops that we are growing in this country to address potential markets and opportunities. These are great for conservation. I think they are terrific opportunities for jobs and for rural development. If I am confirmed, I will work very diligently in this effort.

Chairman LINCOLN. I appreciate that and I hope that you will continue to share your vision of how NRCS and the Forest Service can work together to really provide the kind of—private forest landowners with the assistance they need in managing their lands and certainly in terms of the decisionmaking. I know it—often times it definitely takes time, but sometimes expediting that can really be a big help.

I am also from a rural state and a primary concern of mine is the state of rural forested counties. In 2008, we reauthorized the Secure Rural Schools in Communities Act, which helped provide critical funding for schools, roads and forest management that contributed to strengthening the economies of these rural communities.

If authorization expires at the end of 2011, the funds for schools and counties will drop by more than 50 percent, which could be devastating. We had here, well a group meeting yesterday of rural educators basically, but the foresight of that would just be devastating to many of our rural schools across the country. This would be a huge blow to those communities.

Are you familiar, Mr. Sherman, with the SRS and do you support its reauthorization?

Mr. SHERMAN. Madam Chairman, I am not familiar with this program yet, but I promise you that I will become familiar. If I am confirmed I will look into it actively and I will get back to you on that.

Chairman LINCOLN. Please do. There is a disproportionate share of our children in this country that do attend rural schools and certainly that combination of what the Forest Service and others do in those counties and how it affects those schools and the ability to educate our children in rural areas of the Nation is really, really critical.

Last, just maybe you might share with us your experience in Colorado developing the state's roadless rule and how that might affect your handling with that issue nationally?

Mr. SHERMAN. Well first of all, let me just reemphasize my personal commitment to protection of the country's roadless areas. This is an extremely important asset to our current generations and to future generations in the United States. As a personal matter, I believe very deeply in the importance of this resource going forward.

I do want to say that because I was involved in the preparation of a Colorado roadless petition under the Administrative Procedure Act, in my discussions with USDA officials, I think it is appropriate for me to take myself out of consideration of reviewing and rule that I helped to prepare.

So I am sure that the secretary will designate someone else in the department to review the Colorado petition as it comes forward. But the president has stated his very clear desire to protect roadless areas in this country. Secretary Vilsack has as well. I am anxious to sit down with the secretary and his staff to review what strategies and what approaches they will be using going forward.

I have not yet had that opportunity, but I am looking forward to that and if this Committee wishes to talk further about that after

I have had these briefing opportunities, I would be happy to come back and discuss it with you.

Chairman LINCOLN. Thank you. We look forward to many discussions. Obviously, as under secretary of agriculture for Natural Resources and Environment, there is a multitude of issues that are covered there that particularly affect our rural states and they are important. Things that—I will be honest with you, and I do not know how my colleague feels, but I get hit with them every time I go home, which are questions in regard to everything from wetlands and wetlands reserve programs, as well as the rural schools initiatives and other things like that. So those are important issues to our constituents and you will definitely hear from us a great deal in terms of many questions that we will have.

I know my time is running out. I just wanted to touch briefly with Mr. Spearman. As our nation is recovering from financial crisis, there has been much discussion about regulatory reform. We heard it from the previous panel and oversight of the financial institutions.

I certainly strongly believe that the Farm Credit Administration Board needs qualified individuals who can be independent and objective regulators and we look forward to that. If you could share with us your qualifications and capabilities that you would bring to the job to be an independent, objective and conscious regulator of the Farm Credit System and Farmer Mac.

Mr. SPEARMAN. Thank you, Madam Chairman. My experience after graduating from Indiana University was to work for a public accounting firm and as an auditor in a public accounting firm we learned extensively how to actually go into a company, a company that was actually paying you for that job, and to act as an independent auditor.

Following that experience, I moved on to an internal audit position ultimately with Florida's Natural Growers, where I actually worked for Florida's Natural Growers, but my job was to actually put myself outside of the management of the company and to observe the operations, both financially and operationally, as an independent objective auditor.

And moving on to the AgFirst Farm Credit Bank after my retirement from Florida's Natural Growers, I was actually brought on that board as an independent outside director. I do not have farming experience, if you will, other than the experience that I have gotten visiting farms nationally from farmers who have invited my wife and I to experience what actual farm life is like.

So as a result of that, I have—I believe that I can kind of put myself outside and observe the system and act as an effective regulator.

Chairman LINCOLN. I just think it is important to give you the opportunity because as an appointed director—but you did qualify as an independent appointed director on the board?

Mr. SPEARMAN. That is correct.

Chairman LINCOLN [continuing]. Of the AgFirst Farm Credit Bank—to give you an opportunity to really visit about your ability to be impartial in that.

I know our auditors here, whether it is CBO or the JCT and others, as auditors they are non-partisan and certainly not partial.

They just count the beans and tell us how the cow ate the cabbage is basically what they do for us. But it is important as we create legislation to have that and certainly I think it is important to have that independence.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Madam Chairman. Mr. Avalos, as under secretary for Marketing and Regulatory Programs, you are going to be responsible for regulatory decisions, obviously in a very broad arena, including biotech approvals and import standards for agriculture products, such as chickens and other meat products. While sanitary and fido sanitary standards are vital to protect our country from foreign pests and diseases, many of our trading partners use these standards as barriers from time to time to stop our exports.

The biotech issue, GMO issue with our European friends is always a continuing issue and I have had significant debates with the Russians over their, I think, faults presentation relative to fido sanitary issues on import of chicken products, for example. We must ensure that our regulatory system produces decisions that are timely and science based and I simply would like a commitment from you to adhere to science-based decisions and not insert political, social or economic considerations into the regulatory process.

Mr. AVALOS. Madam Chair, Senator, that is a good question. I have spent considerable time in my career working in international trade and I know exactly what you are talking about. I remember back in my early career in New Mexico exporting sheep into Mexico I ran into the same situation, so I can understand where you are coming from.

If confirmed as the under secretary, I will work with Secretary Vilsack and this Committee to look at how we can address these issues with our foreign markets.

Senator CHAMBLISS. Will you commit to using science-based technology to implement regulations?

Mr. AVALOS. Senator, absolutely.

Senator CHAMBLISS. Since Senator Thune is not here to ask it, I will ask you about that non-controversial issue of animal I.D. that I think was first initiated before I was elected to the House 15 years ago, 16 years ago.

What are your thoughts relative to the implementation of the animal I.d. program, since it looks like we have finally come to a conclusion of the legislative process?

Mr. AVALOS. Senator Chambliss, I had a hint that question was coming and I appreciate you asking the question because it is of tremendous interest to me and of tremendous interest to the livestock industry in this country.

Animal I.d. is driven really by the need to trace animal disease. I want to applaud Secretary Vilsack for conducting listening sessions all over the country. I think this was critical, extremely important, to allow stakeholders to come in and provide input, provide their concerns, provide solutions.

Coming from New Mexico, we are a brand state and we have probably one of the toughest brand laws in the country. In New Mexico, we have the ability to quickly and efficiently trace a disease outbreak, so in establishing the disease traceability program,

if you will, I feel that brand states—and of course, comment and input from stakeholders should be considered as important.

If confirmed, I would look forward to reviewing the comments from the listening sessions and look forward to working with Secretary Vilsack and the stakeholders to move forward with this issue.

Senator CHAMBLISS. It is a significant concern to all of our livestock producers and the implementation process is not going to be easy, but I am sure you are up to that challenge. As I have said on numerous occasions before, I am quick to criticize USDA when I think they have not acted properly. But often times, we do not compliment them when they do and both Secretary Venneman and Secretary Johanns had a BSE issue to deal with during their tenure as secretary of Agriculture and the department did not get the credit that it really deserves for the way they handled that. It was done quickly, professionally and did not interrupt our markets.

We are still paying a price on some export markets, but it was not due to the fault or the way that USDA handled that. So this ought to give us an additional tool to work with to try to make the current system, which works well, even better. So we look forward to working with you with respect to that.

Mr. Sherman, I have received about 10 letters and e-mails from Georgians about your appointment and they raise concerns about your approach to managing Federal, state and private lands. I am not going to read those this morning. I would simply like a commitment from you to let me get those e-mails and letters to you and have you address those collectively so that I can respond to those constituents of mine who have raised a concern.

As under secretary for Natural Resources and Environment, you are going to have one of the most—you are going to find that most of your time be spent on dealing with U.S. forest issues and I think you have already addressed that. However, there is another very important part of your job and that is to oversee USDA's work with producers conserving private lands.

American taxpayers invest substantial resources in helping producers help the land each year. By and large, USDA does a good job to provide the NRCS—excuse me, to provide the technical and financial support to do that. But the NRCS is under strain and it is under resourced. Farm Service Agency, which is not under your jurisdiction, has exactly the same problem.

We need to find a way to address the infrastructure needs of the agencies that interact with producers on a daily basis. I would like to know what your thoughts are on recruiting, retaining and supporting NRCS' field staff and meeting the agency's technology needs.

Mr. SHERMAN. Thank you, Senator. Let me just say at the outset, I am very, very excited about the mission of NRCS and I am very impressed by the scope of its work. It is truly remarkable all of the areas, the conservation areas, that this agency is now working in. I have been advised that the agency has some 2,500 offices throughout the United States that are on the ground providing services to ranchers, farms and private landowners.

So I am excited by their mission. I think we need to provide them with the resources they need to get the job done properly. I

met with Chief White the other day for the first time and we had an excellent conversation. So we are going to work very, very hard to continue this effort.

There is some wonderful new opportunities out there for NRCS working with ranches and farms. So I simply give you my commitment that I will work very hard at this. I hope we can have an active dialog with each other about this issue and with this Committee and I am anxious to get on with the job if confirmed.

Senator CHAMBLISS. One other issue that you are going to be faced with right out of the box is an issue that while I represent Georgia is of great concern to me, and that is the issue regarding the plight of the farmers out in San Joaquin Valley in California. It is an issue that certainly involves ESA, which means Secretary Salazar and the Department of Interior may have some primary jurisdiction over part of it. But it does involve farmers in that part of the country.

They have a real significant issue that they have to deal with and I would simply ask that when this does hit your desk, and it will be there the day you are sworn in, that you give immediate attention to that and work very closely with the Department of Interior to let us see if we cannot provide some assistance to those farmers out there who truly are suffering. When you look at the percentage of produce that is delivered to our farmers markets and grocery stores around the country that come from the San Joaquin Valley, it is significant, which means that U.S. agriculture is suffering as a result of that issue.

Mr. SHERMAN. I know Senator Salazar, Secretary Salazar very well and I will look forward to talking to him about that issue.

Senator CHAMBLISS. Mr. Spearman, your nomination to this position at Farm Credit is coming at a critical time in the financial community that both Farm Credit, as well as other financial institutions around the country, deal with. Agriculture, the challenge by the turmoil in the economy, has weathered the storm fairly well.

With your experience with an agriculture cooperative, you have seen ups and downs in agriculture firsthand. How would you compare last year's troubles to past experience? What challenges and opportunities do you see ahead for agriculture and what role do you see the Farm Credit System play in providing financing to producers as they face those current challenges and opportunities?

Mr. SPEARMAN. Thank you for that question, Senator Chambliss. Of course I was not around and working with cooperatives during the eighties, but I have heard a lot of conversation there about the troubles with land prices that the farmers had and the drying up of credit for a lot of those folks who ended up losing their farms and losing their properties.

I think the controls that were put in at that time—the Federal Government did step in and briefly help the Farm Credit System, by which the Farm Credit System has paid all of that money back. I do think that the GSE designation for the Farm Credit System has worked adequately. I think that there is stresses in the industry currently, particularly in the dairy and in the poultry and in some of the livestock industries.

I think the system has procedures and practices in place that is effectively dealing with the problem. Agriculture tends to lag the

commercial industry. I believe that there is adequate capital out there for sound loans to be made and I just think that the industry and the system is postured to continue to have credit for the ranchers and farmers into the future.

Senator CHAMBLISS. Thank you very much, Madam Chairman.

Chairman LINCOLN. Thank you, Senator Chambliss. Just to touch real quickly and there may be others in the Committee that would like to submit questions for the record, so just to give you all a heads up on that and I may actually join them with a couple.

But Mr. Avalos, Senator Chambliss brought up the biotechnology and the importance of implementing a timely and science-based approval process and working through some of those things. I just would stress the timeliness on that. My understanding, that currently the average length of time for agency decisions, making petitions for regulatory approval of agricultural biotech products, has steadily increased and it is alarming to me, I do not know if you mentioned those numbers, but from approximately 150 days in 1996 to almost 700 days at present.

Our hope is, I do not know if you are aware of that big of an increase in terms of delay, but hopefully there will be plans to reduce the current lengthy petition process as it exists. We are going to need to be more competitive than ever in this growing—as we rebuild our economy and the global economy and I think that efficiency is going to be a critical part of how we do that.

So would just like to bring that to your attention and hopefully you can play a role in improving upon that.

Mr. AVALOS. Thank you, Madam Chair. I acknowledge your concerns and if confirmed, I definitely will follow up on this.

Chairman LINCOLN. Well 700 days is an awful long time to go through a process. I do have a few other questions, actually one more just to bring to your attention, Mr. Avalos. There has been a recent, from the USDA, the Animal Plant and Health Inspection Service, APHIS, they are delaying right now for 30 days the implementation of a recently increased—announcement of an increase in fees charged for certain agricultural quarantine and inspection services.

I would like to visit with you more on that hopefully in the future. I think the 30 days may be adequate, but I am not sure that it is going to be adequate in order to make sure that all of those that are participating, whether it is passengers or airlines or others, are going to be able to put that into place as quickly as that may be. So as much as we do not want to delay, we also want to make sure there is adequate time to implement, and so we may be following up with you on that at a later date.

The Committee has also received various letters of support for one or more of our nominees here today and Senator Chambliss, if there is no objection, I would like to make those letters a part of our record. So without objection, that would be so ordered.

[The information referred to can be found on page 216-224 in the appendix.]

Chairman LINCOLN. If there is no other matters that we need to discuss, I have one last housekeeping item. Senators do have until close of business tomorrow to submit any further questions and the record will remain open for five business days in order to give you,

the nominees, the sufficient time you need to respond and we hope that you will be respective of that as we try to move forward on your nominations. We do need the response to those questions in a timely way.

I want to thank all of you all for appearing before us today and your willingness to serve our government in these capacities. I would also like to take this opportunity to say that we are only as strong as the team that we play on and the Agriculture Committee staff is a phenomenal team. Both the Majority staff and the Minority staff do a tremendous job and I want to personally thank them for helping to make my first hearing a success, in my estimates, and I hope in others'. But they work tirelessly and do a tremendous job on behalf of the Committee.

As I said, it may not be the most glamorous of committees, but it is one that has an unbelievable diversity in terms of the breadth of issues that it covers and the expertise within the staff on the Majority and Minority side are a tremendous asset to the country and I am grateful to all of them for the hard work that they do.

I am still holding out on you, Vernie, but appreciate all of you all for a very historic day for me and one that is very meaningful and I thank you all for participating in it. We appreciate you in offering yourself for service. And a special thanks to my colleague and friend, Senator Chambliss.

With that, the Committee is adjourned.

[Whereupon, at 12:06 p.m., the Committee was adjourned.]

APPENDIX

SEPTEMBER 30, 2009

Statement of Senator Thad Cochran

Committee on Agriculture, Nutrition, and Forestry

September 30, 2009

Madame Chairman, I congratulate you on ascending to the chairmanship of this important Committee. Your successful work on behalf of farmers and ranchers is well known and appreciated. I look forward to working with you to review and improve the programs under the jurisdiction of this Committee.

I am pleased to introduce to the Committee Mr. Scott O'Malia who has been nominated by the President to serve as a Commissioner of the Commodity Futures Trading Commission. I have known Scott and worked with him for a number of years, and I believe he is very well qualified for this important position.

Since 2004, Scott has served as a staff member of the Senate Appropriations Committee. Currently, he is the Minority Clerk of the Subcommittee on Energy and Water Development. As Clerk, Scott leads the effort to develop the annual appropriations bills for the Department of Energy, the U.S. Army Corps of Engineers, and the Bureau of Reclamation.

Prior to joining the staff of the Appropriations Committee, Scott served as Professional Staff on the Senate Energy and Natural Resources Committee. His responsibilities included oversight of both energy trading markets and oil and gas production. His previous experience will give him valuable insight into the work of the Commission and other regulatory agencies.

Scott has also gained valuable private sector experience related to corporate risk management. From 2001 – 2003, he worked to establish rules and standards for energy trading among various wholesale power producers.

His experience with energy related policies and activities will provide the CFTC with valuable insight when reviewing energy related financial instruments and regulatory proposals. Scott's knowledge of the Senate and its responsibilities will prove helpful also as we work to exercise oversight of government agencies under the Committee's jurisdiction.

I enthusiastically support the nomination of Scott O'Malia to serve as a Commissioner of the Commodity Futures Trading Commission.

Statement by Senator Pat Roberts
Nomination Hearing
Senate Agriculture, Nutrition, and Forestry Committee
September 29, 2009

Madam Chairman, I want to convey my strong support for the nomination of Jill Sommers to a second term on the Commodity Futures Trading Commission.

Jill is a native Kansan and a graduate of the University of Kansas. She's actually from the picturesque town of Fort Scott, home to the Ft. Scott National Historic Site and National Cemetery.

She is well qualified for this position. Having served on the staff of Senator Bob Dole and worked in several positions in the futures industry, she has the background and understanding necessary to address the difficult issues she will face as a CFTC Commissioner.

More importantly, being from Kansas she understands agriculture and the significant role the CFTC plays in regulating our agriculture markets.

Madam Chairman, the CFTC faces several challenges in bringing additional transparency and accountability to the marketplace while at the same time providing opportunities for producers to better manage their risks.

Thankfully we have high caliber folks like Jill and others who are more than up to the task.

I am proud to support Jill's nomination as a fellow Kansan.

TESTIMONY OF EDWARD M. AVALOS
SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Chairman Lincoln, Ranking Member Chambliss, and Members of the Senate Committee on Agriculture, Nutrition, and Forestry, thank you for the opportunity to appear before you today. Also, I would like to thank Senator Bingaman for his kind words and for his efforts in representing the State of
New Mexico. Also, I am extremely grateful to President Obama for nominating me and Secretary Vilsack for his support. With me today is my better half Anna Bee from Mesilla, NM, my daughter Alexandra and her fiancé Tom from Long Beach, California; my daughter Megan and her fiancé Mark, from Phoenix, Arizona; and my son and fishing and hunting buddy, Russell from Las Cruces, New Mexico.

Madam Chair, Members of the Committee, it is an honor to be nominated to serve as the Undersecretary for Marketing and Regulatory Programs at the United States Department of Agriculture (USDA). The mission areas include the Agricultural Marketing Service (AMS), Animal and Plant Health Inspection Service (APHIS) and Grain Inspection Packers and Stockyards Administration (GIPSA). Each of these agencies is extremely important and contributes to benefit the agricultural industry all the way from the producer, through the shipper, processor, retailer, and on to the consumer.

I grew up on a family farm in the Mesilla Valley of Southern New Mexico. At an early age, my parents, Adolfo and Eva Avalos, instilled a strong work ethic which I have followed throughout my professional life. My 30-plus years of experience in agricultural marketing have prepared me for my role as the Undersecretary. I have worked with the agriculture industry to address regulatory, marketing, production, and other issues and challenges in both the national and international arenas. I am a firm believer that the United States (U.S.) agricultural sector has been and continues to be the backbone of this country providing food and fiber to consumers and end users in the U.S. and also to markets all over the world.

During my career, I gained considerable experience in both the international and domestic arena. I have worked to support the production and marketing of livestock, specialty crops, and value-added products through the implementation of trade missions, dialog, and trade promotion.

Also, I've worked with diverse stakeholders to develop, establish and maintain markets for sheep, cattle, goats, and numerous fruits and vegetables in Mexico; onions and processed foods to Canada; and most recently, the pecan grower's success in creating an export market in China.

In the domestic arena, I have been successful in establishing markets for chile, onions, potatoes, watermelons, pumpkins, pecans, beans, and alfalfa. I have worked closely with producers to support the production of crops that the industry demands, with distributors for timely delivery of goods and with retailers to showcase, promote, sell, educate, and inform the consumer

utilizing brochures, recipes, and other promotional and educational tools.

In addition, I have worked to advance Indian agriculture, including working closely with the Navajo Agricultural Products Industry—an 85,000 acre farming enterprise located on the Navajo Nation in the four corners area of New Mexico and with some of the pueblos in Northern New Mexico to bring back traditional agriculture to their tribes.

I believe it is important to create an atmosphere of collaboration and foster good communication throughout agriculture production. I am enthusiastic about opportunities to promote fresh and local availability of products, more farmers markets, and better connecting the American public with their food supply.
As a result, I have established an effective and informative network of growers, shippers, trade organizations, and other stakeholders throughout the country. I've worked closely with the North American Agricultural Marketing Officials, National Association of State Departments of Agriculture, and the Western United States Agricultural Trade Association. This network provides much needed input on issues and trends within the food, agricultural, and livestock industries.

If confirmed as undersecretary for Marketing and Regulatory Programs, I will emphasize providing oversight for the three agencies and addressing the concerns of agriculture boards and commissions. If confirmed, I look forward with enthusiasm to stimulating employee morale and working with the many fine public servants assigned to my area as well as with the other agencies at USDA. I am strongly committed to Civil Rights at the Department and will work hard to ensure USDA's employment practices will not tolerate any form of discrimination, but instead will create a positive environment that celebrates and draws upon the strength of USDA's diverse workforce and customer base.

If confirmed, I am committed and dedicated to working with Secretary Vilsack and this Committee to address and resolve the many concerns and difficult issues facing the food, agriculture, and livestock sectors in this country. Building on my experience with farmers, ranchers, dairymen, shippers, brokers, processors, distributors, retailers, and consumers, I will provide the leadership and guidance needed to implement the farm bill and carry out our mission at USDA.

Thank you for your consideration and I look forward to responding to your questions.

Testimony of Commissioner Bart Chilton

Commodity Futures Trading Commission

Before the

United States Senate Committee on Agriculture, Nutrition, and Forestry

September 30, 2009

Madame Chair, Senator Chambliss and members of the Committee, thank you for the opportunity to be before you, yet again. It's a particular honor to be here today as one of the first witnesses, at the first hearing to be gaveled by the hand of the first woman chair of this Committee in its illustrious 184-year history. There have been 48 chairmen of the Committee since 1825, and some great ones at that—including some Senators who still serve. However, there has never been a woman or an Arkansan as Chair, and I feel very privileged to be here at this moment in history.

I have testified before the Committee each of the last two years. Last year, I gave what I called a "report" on my first year at the CFTC. I'd like to do that now, and like last year, I'll be brief.

The futures industry was not at ground zero of the "crecession"—that is, the credit crisis and the recession. The Commodity Exchange Act (CEA) and the amendments thereto have worked fairly well—as have these markets for most of their more than 150-year history. That said, this is not only an opportune time to look at what we can and should do better, but it is also a propitious time to review how we are moving forward to continue to ensure that these markets are efficient and effective and that we do all we can to avoid fraud, abuse and manipulation.

New Speculators

First, there is still debate about what impact new speculative activity has had in these markets, particularly as we saw a commodity bubble last year. Some say a lot, some say none, some say a little. Here is what I know: approximately $200 billion went into these markets in the last few years from a new asset class of non-traditional investors. Many of them are what I've called the "new speculators," that is, pension funds, university endowments, state and local governments and index traders who generally take and hold long positions indefinitely. These new speculators are a different phenomenon in the futures markets, which have traditionally been populated by commercial traders—those with a business interest in the underlying physical commodity—and traditional speculators—those who go in and out of the markets, providing liquidity for hedgers, based on their judgments of price movements. The new speculators have a different modus operandi. They get in the markets, by and large, and stay there—most of the time regardless of price. They are passive long traders who are betting that the price of a commodity will be worth more in a time certain—say five years—than it is today. They don't alter their trading strategy on daily prices or other information coming into the markets—this is

sometimes referred to as being "price insensitive." As regulators, we need to be aware of the potential effects and activities of these new participants in the markets, and what their impact may be on traditional market users and the primary functions of the futures markets, that is, price discovery and risk management.

My take on this is that the new speculators have had an impact. That impact was likely divorced from the fundamentals of supply and demand, and has effected farmers putting seed in the ground, consumers and businesses putting gas in their cars and trucks, and families putting food on their tables. I'm not suggesting that the new speculators are necessarily the primary "drivers" of commodity prices, but I think they have had an impact. So, what do we do, as regulators, with that?

Under the Commodity Exchange Act (CEA) Section 3, a fundamental mission of the CFTC is to guard against fraud, abuse and manipulation. That means taking some precautions. In my mind, we need to do this in a way that doesn't roil markets and that doesn't send trading to less regulated venues or to overseas trading platforms.

Position Limits/Hedge Exemptions

Given the amount of volatility we've seen over the last two years in commodity prices, it makes sense for us to review limits on the amount of positions that traders can hold and also to look at exemptions to those limits. We have had position limits in the agriculture commodities since the 1940s, and they seem to have worked pretty well (although we have certainly seen some significant hiccups in the last two years). I don't know why appropriate position limits wouldn't make sense in the other physical commodity markets, specifically, energy and metals. That's one of the benefits of principles-based regulation: it allows us to innovate, bring something new and needed to markets as we see it's required. We certainly need to strike the right balance, but since our obligation under the law is to guard against, among other things, manipulation, this seems like an appropriate course to pursue.

The Commission is currently considering what appropriate action(s) we can take in this regard and I commend CFTC Chairman Gensler for holding a series of hearings this summer on these specific topics.

Whatever we do, or don't do for that matter, we need to account for the markets we don't observe. The CFTC does not have a full-landscape view of the derivatives markets and as a result, we cannot protect consumers as we should. The over-the-counter (OTC) markets are comprised of billions upon billions of dollars of unregulated trading. This is where credit default swaps began trading, metastasized among traders, and then played such a significant part in the crecession. All of these trades were done out of the view of regulators. I do care about larger OTC trading that could have an impact upon the currently regulated exchanges, or upon price. I care about OTC look-alike contracts traded on exempt platforms—just as I care about look-alike contracts on Foreign Boards of Trade (FBOTs). I don't know that as a regulator, however, just how much I should care about insignificant bilateral trades between say, a grain elevator and a large producer, if that transaction doesn't affect commodity prices or extend beyond local commerce. But as I say, I'd like more of a panoptic view of all markets, and that means looking

at OTC trades in some significant fashion. It also means having regulatory and enforcement authority over these currently unregulated markets.

The Commission is currently considering what we can do, in appropriate fashion through our rulemaking, on position limits and hedge exemption. Whatever we do, assuming we do anything, we need to do that with an eye toward the OTC markets. Some have suggested that if we impose position limits on the regulated exchanges that the trading will simply move to the OTC markets or overseas. That is a good point, and whatever we do needs to be done in light of what the Congress may do with regard to OTC trading as part of a regulatory reform measure. While I do not think that the CFTC must wait on Congress to act on regulatory reform, I do believe we need to be cognizant of the entire environment in which we are operating and ensure that whatever we do doesn't have a perverse impact on markets, traders, or most importantly, upon consumers.

Manipulation

The issues I've addressed have been the subject of many hearings and written about in the news media, but they are important so I wanted to mention them once again. There are, however, three other issues I wanted to raise that have not received as much attention.

First, I think Congress—and specifically this Committee—should seriously consider changing our manipulation standard. It's an opportune time to address this, inasmuch as you have the issue of financial regulatory reform on your agenda. Just a few weeks ago, we had two days of hearings with the Securities and Exchange Commissioner (SEC). These were historic in that the Commissioners of the two agencies had never met in a public setting before. They were long overdue given the myriad issues of mutual interest between the two agencies. One issue that I highlighted (and our Chairman also raised questions on this point), is the varying manipulation standards. If you compare the agencies' manipulation standards, the SEC has an easier legal hurdle to jump, and I think this may be a great opportunity to adjust our standard to be more in line with theirs, particularly in light of the Administration's call that our agencies harmonize our rules and regulations. The Federal Energy Regulatory Commission (FERC) and the Federal Trade Commission (FTC) have standards similar to the SEC's manipulation standard.

To be more specific, under applicable case law the CFTC is required to prove "specific intent" to manipulate. That is a very difficult standard to reach, not to mention that it leaves a lot of wiggle room for mischief that is clearly prohibited by the Act, yet not categorically outlawed. It would be extraordinarily unlikely that any individual, for example, would explicitly write in an e-mail that he or she specifically intends to manipulate prices. But that's what our law currently requires. In fact, this standard is so high that in the CFTC's 35-year history, while we have settled numerous manipulation cases, we have only successfully prosecuted and won one single case of manipulation in the futures markets! Only one. And that case, the DiPlacido matter, is currently on appeal in federal court.

In addition, our case law requires that we prove an artificial price exists, that the defendant had market power to move the price, and the he or she actually did cause the artificial

price. Particularly in today's complex markets, proving "artificial price" can be a daunting task, which more often than not comes down to a "battle of the experts" in court. Because these requirements are so onerous, we often end up moving to a lesser charge of "attempted manipulation," which requires only proving intent and some act showing that intent. This is still a high standard, but is much easier than proving up a full manipulation case. Again, we've been very successful over the years, particularly in the energy arena, in obtaining significant settlements in attempted manipulation cases, but we've not had success in litigated cases because of our very difficult manipulation standard.

The Securities and Exchange Commission (SEC), on the other hand, under its "10b-5 rule" has a different, easier-to-prove manipulation standard. Basically, they are not required to prove specific intent, as we are, they just must prove that the defendant acted "recklessly." I'm not saying that the answer is wholesale adoption of the SEC manipulation standard, but clearly, as Senator Cantwell and others have recently noted, we need to do something different at the CFTC. The status quo simply isn't good enough.

A recent federal court case in Texas exemplifies the need to amend our manipulation standard. In 2007, the CFTC settled the BP manipulation case for an unprecedented amount of $303 million—the largest settlement in the history of the CFTC. The Department of Justice (DOJ) followed that case by bringing a criminal case against four of the participants in the scheme. Two weeks ago, the Texas judge in that case had to throw out the manipulation charge against those four, because (although he made it clear he didn't condone their behavior) he said that, in essence, the CFTC manipulation standard simply could not be met. Clearly, the current standard is not working.

I would point out that, in looking at other jurisdictions around the world, virtually all nations have rules prohibiting this type of conduct, and it is a criminal offense in many of those jurisdictions, entailing significant sanctions. In this country, our current standard in the futures arena is ineffectual. It is not sufficient to fully prosecute and deter abuses in the markets, and I'm hopeful that in working with Congress, we can all move forward on figuring this out.

Criminal Authority

Another issue that I think deserves more attention—related to our manipulation standard and enforcement efforts—is criminal authority. Neither the CFTC nor the SEC, the two principal federal financial regulators responsible for policing the exchange trading markets in the United States, has legal authority to put bad guys in jail. Both have authority to bring cases in federal court against fraudsters and scam artists, but the only penalties in their regulatory arsenals are civil—monetary fines, for example. The Federal responsibility for putting people behind bars is reserved, currently, for DOJ. And the reality, unfortunately, is this: it is becoming tougher and tougher to incarcerate felons because of a lack of legal authority—criminal authority—for financial regulators.

Violations of commodities and securities laws often involve highly technical and complicated trading schemes. To prosecute these violations effectively, attorneys and investigators must be experts in the complex functioning of these markets. SEC and CFTC

enforcement personnel are specially trained to handle these matters, unlike DOJ prosecutors who are more likely to be unfamiliar with the mechanics of financial trading and the interstices of federal financial laws and regulations. That doesn't mean that there aren't very qualified DOJ attorneys who understand futures law. There are some, but not enough. While DOJ attorneys do an excellent job in their prosecutorial functions, it is simply asking too much to expect them to be expert in the types of complexities that commodities and securities professionals deal with on a daily basis. It is perhaps understandable why it is difficult to get them to commit scarce resources to prosecute complicated financial fraud and manipulation cases.

Since 2002, the CFTC has referred over 100 cases to DOJ and other criminal authorities (such as state and local law enforcement bodies). Unfortunately, two-thirds of those criminal referrals have been rejected. One might think that we aren't sending them good criminal cases, but that's not the situation. In fact, in 100 percent of those matters, the CFTC moves forward and we reach a favorable outcome for the government.

The bottom line is that folks who do the crime often only pay the fine and don't do the time. Other financial regulators around the world—in the United Kingdom, Australia, Hong Kong, and Japan, for example—already have such criminal authorities. Chairman Peterson of the House Agriculture Committee has taken a leadership role on this issue, resulting in passage by his Committee of a provision that would grant the CFTC such authority. I understand that this raises jurisdictional issues—both in Congress and with DOJ. Perhaps there are good reasons that this should not be done. So far, I haven't heard those reasons. I have heard that , "It has never been done." I have also heard that, "Only DOJ should handle such cases since they are the Executive Branch." But, what are we? The CFTC is part of the Executive Branch. Granted we are an independent agency, and perhaps that raises issues that cause some concern. Again, however, I haven't heard a good argument against this proposal. Certainly, I'm hopeful that congress will consider this change.

Consumers

Finally, I think the Commission needs to revitalize its commitment to educating, protecting and advocating for the investing public. The futures markets of today are not the same as they were even three years ago, and that is, in part, due to new participants. With the advent of new and novel products, and the crecession, the investing public are now moving their assets into the futures markets with exponential momentum, and they are sometimes doing so without full and complete understanding of the nature of the investments or strategies.

The CEA specifically empowers the CFTC to engage in education and outreach efforts to protect market participants from fraudulent and other abusive sales practices, and I am committed to a renewed effort to provide consumers with information they need and want regarding financial investing. We need to become a more user-friendly public resource for investors and prospective investors. Only through increased financial literacy will the investing public be better able to navigate the investment choices currently before them. I'm committed to providing this resource to American consumers to provide the protections and information they need and deserve.

Thank you for the opportunity to be with you today. I'd be pleased to answer any questions at the appropriate point.

STATEMENT OF SCOTT D. O'MALIA
Before the
United States Senate Committee on Agriculture, Nutrition and Forestry
September 30th, 2009

Madame Chairman, Ranking Member Chambliss and members of the Committee thank you for the opportunity to testify today. Madame Chairman, I would like to congratulate you on becoming Chairman of this Committee.

I am grateful to appear before you as President Obama's nominee to serve as a Commissioner to the Commodity Futures Trading Commission (CFTC). I would like to thank Senator Bennett for his support and willingness to introduce me to the Committee. As a Michigan native, I would also like to thank Senator Stabenow for her support as well.

Before, I begin I would like to introduce my family. I am joined by my wife, Marissa and three daughters Kelsey, Claire and Macey. I would also like thank my parents, John and Bev O'Malia, for joining me here today. I would not have this opportunity today if it were not for the support of my wonderful family.

I am honored to be nominated by the President to serve as a Commissioner to the Commodity Futures Trading Commission. Given the fact that this country has experienced the worst financial meltdown since the great depression, I recognize the enormous responsibility of this office.

Like everyone in this nation, I too have lost value in my home, retirement and college savings. I am sensitized to the hardship this crisis has caused families across the country. This experience reinforces my strong belief that our nation's financial regulators must be vigilant in their oversight responsibilities to ensure transparency and accountability in our markets. Furthermore, regulators must recognize the inherent risk associated with the trading products which have contributed to this crisis and they must commit to doing all they can to maintain stability and security of our financial markets.

I believe the oversight of our financial institutions and markets must be strengthened. I am committed to exposing the underlying risk and trading practices that might further destabilize our economy with serious impacts on our financial, energy and agriculture markets. The stability of our futures and commodities markets require that trading occur among reliable parties with as much information as possible. I am also concerned that extensive leverage and uncertain collateral values could destabilize these markets.

Madam Chairman, for the past six years, I have worked in the Senate serving on the Senate Energy and Natural Resources Committee and the Senate Appropriations Committee. During this time, I have focused my work on energy policy with the goal of reducing our nation's dependence on foreign energy resources and expanding U.S. investment in clean energy technologies, including improving the effectiveness of the Department of Energy's Loan Guarantee program.

Over the past three years, the Energy and Water Subcommittee has authorized and appropriated over $50 billion worth of self-financed loan guarantees and invested tens of billions of dollars into research and development to support the deployment of clean energy technology.

Transformation of our energy sector requires more than federal research assistance. It requires billions of dollars in new investments that will occur only if investors believe energy markets are stable, provide reliable price transparency and offer the opportunity to hedge their commercial risk.

Prior to joining the Senate Energy Committee, I spent two years in the electricity sector. This experience provided an invaluable education regarding the devastating impacts a flawed market design and illegal trading behavior can have on consumers. As a result of this experience, I am resolved to prevent this catastrophe from being repeated.

I joined Mirant in February 2001, as a director of federal affairs focused on federal energy policy. I did not work for a trading desk or for a business unit that managed generation assets. By the time I arrived, it was already apparent the California electricity market was dysfunctional. California had experienced a difficult summer with record energy prices and blackouts in June, 2000. By November 2000, FERC had determined that the California market was flawed, making it possible for manipulative trading behavior to cause an imbalance in supply and demand that made electricity rates unjust and unreasonable.

In response to the trading behavior uncovered in 2001, I worked with Mirant's Chief Risk Officer and five other energy companies to establish the Committee of Chief Risk Officers (CCRO). This organization was created to prevent and avoid the trading abuses used by some in the industry to manipulate the California and Western energy markets.

The CCRO established industry wide trading protocols, improved price disclosure, required clearing and standardized contracts and imposed a corporate trading code of conduct. These standards would give regulators, consumers and investors a better view into the business and operations of these companies.

I do recognize that many of the same reforms implemented by the Committee of Chief Risk Officers are now embodied in the financial overhaul proposed by the Administration, but on a larger scale. Both efforts seek to improve transparency of Over-the-Counter markets, reduce systemic risk and set trading standards to reduce opportunities for excessive speculation and manipulation. A key component of both efforts has been the utilization of clearing to reduce counterparty risk and allocate capital more efficiently.

My experience reaffirms my strong belief that regulators are critical in ensuring that markets operate in a fair and transparent manner. To achieve this, regulators must be provided with the appropriate authority and tools to respond to the constant evolution of market behavior and products.

As I stated in the beginning, I am sensitive to the impacts the financial crisis has had on families across the country. I also understand the consequences to all of us if markets, which are designed to offer protection from risk, are manipulated and thereby expose our financial system to greater peril.

Drawing on my extensive energy background, I believe I can make a significant contribution to the Commission. If confirmed, I will work with the other Commissioners to ensure markets continue to offer consumers and producers the opportunity to cost-effectively hedge their commercial risk and facilitate the dissemination of timely and accurate market price data. I will work to ensure the CFTC uses all of its legal authorities to curb excessive speculation and prevent abusive trading practices, including fraud and manipulation.

I would like to thank the Committee for holding this hearing and considering my nomination. It would be an honor and a privilege for me to serve as a Commissioner to the CFTC.

Madam Chairman, I would be pleased to answer any questions.

Thank you.

Opening Statement for Harris Sherman, Nominee for Undersecretary for Natural Resources and the Environment, United States Department of Agriculture

Thank you Madame Chairman. It is a great honor to appear before this Committee regarding my nomination for the position of Undersecretary for Natural Resources and the Environment at USDA.

And Madame Chairman, it is also a great honor to be present today at this historic proceeding where you assume the Chairmanship of this crucial Committee. If confirmed, I very much look forward to working with you in your new capacity and with all the members of this Committee.

Several weeks ago when I received the news that President Obama had nominated me for this position, I was deeply humbled by the honor but also by the degree of responsibility that accompanies the position. I fully realize that the challenges ahead will not be easy but it is an extraordinary opportunity to do good things for our country. If confirmed, I promise to use my strengths, energy, commitment, and good judgment to advance the conservation and public land programs that will fall under my jurisdiction. And I promise to work closely with you and the other committees of Congress as we go forward.

My interest in overseeing the Forest Service and NRCS stems from a lifetime of experiences with public lands and conservation programs. As a child, my parents took me to the mountains outside Denver where we would camp, hike, fish, ski, and jeep. These experiences left an indelible impression on me about the grandeur and importance of our national forests. Later, I twice have had the privilege of serving as Colorado's Director of Natural Resources for two different governors where I have worked on a daily basis with the Forest Service and other federal agencies on complex, challenging resource issues. And between these two stints as DNR director I have represented as an attorney both public and private sector clients in their dealings with federal land management agencies. These experiences, combined with my earlier work with the State Soil Conservation Service and my later work with many land trust conservation organizations, have given me a background that I believe will serve me well in meeting the Forest Service's mission.

Looking forward, there are tremendous challenges regarding our forests, both federal and private, and the conservation programs associated with farms and ranches throughout the country. On the forestry side, many forests are in trouble due to past fire suppression, increasing fuel loads and changes to our climate. As a result, many forests are far more vulnerable to catastrophic fire, disease and invasive species, often in epidemic proportions. We are witnessing far more frequent, intense fires than we have seen in the past. Combining these factors with a growing human population influx within or adjacent to our public and private

forests, it is clear that we have a very challenging situation ahead. How we protect our growing communities from fire danger; protect the watersheds within our forests that supply drinking water to much of our population; protect wildlife species that rely centrally on these forests; and insure that our forests play a critical role as carbon sinks is a herculean responsibility. I believe that Secretary Vilsack's emphasis on restoration of our forests, both federal and non-federal, in a manner that addresses climate change, environmental protection, identifies new markets for wood products, creates jobs, and sustains rural communities provides an excellent framework for moving forward.

It is also important that we take a holistic approach to land conservation issues and fully integrate our approach to both public and private working lands. On the NRCS side of the ledger, I have much to learn but I am excited by the mission and scope of the Agency's charge. Conservation on private working lands plays a significant role in protecting water resources and wildlife habitat, creating jobs through market-based conservation opportunities and providing economic opportunities for rural America. NRCS's watershed protection programs help protect communities from floods – like those we just saw in Georgia. With its comprehensive programs, on-the-ground expertise and powerful technical tools, NRCS is well positioned to help private landowners play a significant role in addressing a variety of the nation's conservation challenges.

Together the Forest Service and NRCS can make a major difference. Never before have agriculture and forestry been more at the forefront of current national policy issues. This is an urgent time to make progress. I am excited by the prospect of devoting my energies to these tasks. I promise you that, if confirmed, I will undertake collaborative efforts involving appropriate stakeholders to find common sense solutions and to come up with answers that will withstand the test of time, becoming durable, longstanding, reliable programs .

Thank you.

Statement of Commissioner Jill E. Sommers
Before the United States Senate
Committee on Agriculture, Nutrition and Forestry
September 30, 2009

Chairman Lincoln, Ranking Member Chambliss and other members of the Agriculture Committee, I am honored to be nominated by President Obama for another term as a Commissioner at the Commodity Futures Trading Commission (CFTC). I have been in this position since August of 2007, and it has been a true privilege to serve the American public as a regulator of the U.S. commodity futures and options markets.

During my career, I have had the opportunity to work on Capitol Hill for Senator Bob Dole, for a regulated derivatives exchange, as well as for the trade association representing participants in the privately negotiated derivatives industry. I believe this unique experience gives me a diverse view of risk management issues and the knowledge to help implement our core mission at the CFTC.

Since 1974, that mission has been to protect market users and the public from fraud, manipulation, and abusive trading practices related to the sale of physical and financial futures and options, and to foster open, competitive, and financially sound markets. The agency endeavors to ensure the fairness, efficiency, and economic utility of the markets through a strong regulatory oversight program that includes market surveillance to detect and prevent manipulation and other market disruptions as well as ensuring the financial integrity of the clearing process. This risk-tailored approach to regulation is also complemented by strong enforcement as evidenced by over $2.8 billion worth of penalties and restitution assessed in actions brought by the CFTC since the year 2002.

Through effective oversight, we facilitate the important hedging and price discovery functions that the futures markets were designed to serve. This regulatory regime has enabled the futures industry to experience enormous growth over the past decade. In FY 2000, the U.S. exchange traded volume was 580 million contracts. In FY 2009, the volume is 2.8 billion contracts, which is a 383% increase. Even with that growth, the regulated futures industry did not endure the loss of any customer funds during the current economic turmoil due to the default or failure of a futures commission merchant (FCM).

Although the regulated futures exchanges and FCMs have performed well throughout the financial crisis, there is a widespread belief that the CFTC's regulatory authority should be extended to cover the trading of over-the-counter (OTC) derivatives. There is broad consensus that more transparency must be brought to these markets. The current Commission is unified in support of comprehensive regulatory reforms including full regulation of the over-the-counter markets (OTC). This regulatory framework would cover both OTC derivative dealers and the OTC derivative markets in which they trade.

I believe we need to enhance transparency and close regulatory gaps to achieve improvements in the regulatory structure. To that end, the CFTC has undertaken a number of initiatives over the past year to strengthen our regulatory oversight and

thereby enhance public confidence in the markets we regulate. There is no doubt that public confidence in the markets is crucial. Unless the public is assured that the markets are operating efficiently and are free from abuse, commercial producers and users of the commodities underlying futures transactions will be reluctant to use the markets to hedge their price risks, and the information they would otherwise bring to the markets—which is essential to discovering accurate prices—will be lost. We must strive to bolster that confidence and strengthen market integrity. As decision makers, it is our job to implement prudent government solutions. The CFTC has a responsibility to achieve these objectives, and if reconfirmed, I look forward to continuing to ensure this responsibility is met.

Under the leadership of Chairman Gary Gensler we have taken several steps recently to fulfill those objectives. First, the Commission held three days of hearings in July and August to review the application of and exemptions from position limits for futures contracts involving physical commodities, with a particular focus on energy commodities. We heard from almost thirty witnesses with very diverse points of view. Second, together with the Securities and Exchange Commission, the CFTC held two days of joint public meetings the first week of September to discuss issues of regulation harmonization. The two agencies have been asked by the Administration to identify conflicts in how we regulate similar financial products and to either explain why those differences further important policy goals, or make recommendations for resolving differences where they do not. And finally, on September 4, we implemented two new transparency measures by further disaggregating our Commitments of Traders (COT) report and publishing an updated report, Index Investment Data, based on the information we have been receiving since June of 2008 through our special call authority.

The questions surrounding these issues are enormously complex and require thoughtful resolutions. Our staff is working very hard to provide recommendations on these as well as a number of other important initiatives. I want to take this opportunity to salute the dedicated men and women at the CFTC who serve the American public and the futures industry with great distinction. I am very proud of their work and know they will do an outstanding job implementing any recommendations for enhancing and harmonizing the regulatory framework.

Not since the Commodity Exchange Act and the securities laws were passed in the 1930s has there been a time when events have coalesced, as they have over the past year, to bring into such sharp focus the need for harmonizing regulation and closing regulatory gaps. As a commissioner at the CFTC, I believe there is a historic opportunity to reshape the regulatory oversight of financial markets. It is a very challenging time for the Commission and I am committed to strengthening regulation where needed and eliminating inefficiencies where possible. If confirmed by this Committee and the United States Senate, I will work hard to ensure that the CFTC continues its role of protecting the integrity of the markets while addressing concerns about the regulatory structure. It is the responsibility of the Commodity Futures Trading Commission to defend the crucial risk management and price discovery functions provided by our commodity futures and options markets.

Testimony of
Kenneth A. Spearman
Before the
Senate Committee on Agriculture, Nutrition, and Forestry
September 30, 2009

Thank you, Chairman Lincoln, Ranking Member Chambliss, and the distinguished members of the committee. Senator Lincoln, congratulations on assuming the Chairmanship of the Committee. I look forward to your leadership and to working with you, Senator Chambliss, and this committee for the betterment of American agriculture.

I also want to thank Senator Nelson for his kind and generous introduction. He serves my home state of Florida in the United States Senate with honor and distinction. If confirmed, I will keep the trust of his example of public service to our Country.

It is a privilege to appear before you today as President Obama's choice to serve as Board Member of the Farm Credit Administration. This is a special day for me and I am honored that my family is here to share it with me. We all achieve success in life with the help of others. I'm no exception, so I especially want to acknowledge my wife, Maria, my twin daughters, Michelle Springs and Rochelle Puccia, and my son, Dr. Kenneth Spearman.

It is indeed an honor to be nominated to this prestigious position. I would like to share my background and tell you about the skills and experience I would bring to the Farm Credit Administration Board, should the committee confirm my nomination.

As an accountant, I was involved with the development of a public accounting firm in Chicago, Illinois, and later worked as an accountant for a major accounting firm. From 1980 to 1991, I served as Controller of Citrus Central, Inc., where I was responsible for financial management and reporting for this $100 million agricultural cooperative. Until recently, I was the Director of Internal

Audit for Florida's Natural Growers, Inc. There I was responsible for the design and implementation of the annual plan, which was used to appraise the soundness, adequacy, and application of accounting, financial and other internal operational controls. I currently serve as an independently appointed, outside Director on the Board of AgFirst Farm Credit Bank, a position I've held since January 2006.

As you can see by my professional history, most of my career has been spent working for agricultural cooperatives. During my 28 years in the citrus industry, I gained a deep appreciation for agricultural producers and production agriculture.

As the members of the committee are well aware, production agriculture, particularly Florida's citrus industry, is capital intensive and heavily reliant on access to competitive credit. Add in variables of the marketplace, world events, weather, and many other unforeseen factors and one can see that agriculture is a risky business. Americans and, for that matter, people around the world should be thankful for the men and women who produce the food and fiber that we enjoy daily and without which we could not survive.

As I said, production agriculture is very capital intensive. Land costs, labor, equipment, and fertilizer require long-term and short-term financing. It takes a variety of lenders to meet the credit needs of agricultural producers and their cooperatives. The Farm Credit System, which is regulated by the Farm Credit Administration, is a very important part of the coalition of lenders required to finance American agriculture.

Serving as an outside Director of the AgFirst Farm Credit Bank Board has given me a new and greater appreciation for the complexity and importance of agricultural and rural finance. I believe my 28 years of financial experience working for agricultural cooperatives would serve me well as a member of the board of the Farm Credit Administration. I would utilize that expertise to ensure the safety and soundness of the Farm Credit System so that it continues to serve the credit needs of America's farmers, ranchers, and their cooperatives.

In closing, I would like to thank the Committee for the important role it plays in the oversight and authorization of the Farm Credit System and its mission to meet the credit and related services needs of American farmers and ranchers.

That concludes my statement. I welcome your questions.

Thank you.

DOCUMENTS SUBMITTED FOR THE RECORD

SEPTEMBER 30, 2009

BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used). Edward Mesa Avalos

2. Date and place of birth. November 8, 1951; Dinuba, CA

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es). Divorced

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

   New Mexico State University, College of Agriculture 1970-1974
   B.S. Agronomy 1974; B.S. Horticulture 1975;
   New Mexico State University, College of Agriculture 1995-1996
   M.A. Agriculture 1996.

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

   Texas Department of Agriculture, 1975-1980
   Amarillo, Texas
   Marketing Specialist

   New Mexico Department of Agriculture, 1980-present
   Las Cruces, New Mexico
   Director of Marketing
   Ag Marketing, Sales, and Promotion

   Eddards Construction, Inc. 1987-present
   Las Cruces, New Mexico
   Residential Construction-Construct 2-5 houses per year.

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

   None

7. Government Service: State (chronologically) your government service or public

offices you have held, including the terms of service grade levels and whether such positions were elected or appointed.

None

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

Best Ag Marketing Project 2007-New Mexico Green Chile, North American Agriculture Marketing Officials (NAMO)

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

New Mexico State University Aggie Athletic Fund
Served as a board member from 2006-2007
Purpose was to raise support and funding for Aggie Athletics

Advisory Board, New Mexico State Land Office
Have been on the board since 2006. I will resign when confirmed. My role on the advisory board was to represent beneficiaries and relay their concerns, if any, to the Land Office.

Fraternal Order of Eagles, Member

New Mexico Cattle Growers Association, Associate Member

10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

None

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?

   Yes

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

   None

3. Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch? (If yes, please give a brief description including location, size and type of operation.)

   No

4. Have you, or any partnership or closely held corporation in which you have an interest, ever participated in federal commodity income and price support programs? (If yes, provide all details including amounts of government payments and loans received or forfeited by crop and farm, et cetera during the past five years.)

   No

5. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any current or previously existing agency of the Department of Agriculture, including through any of the farm or rural development lending programs? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.)

   No

6. Have you, or any partnership or closely held corporation in which you have an interest, received payments for crop losses from the federal crop insurance program in the past 5 years? (If yes, give details.)

   No

7. Have you ever received a government guaranteed student loan? If so, has it been repaid?

No

8. If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? (If so, explain.)

   No, If confirmed, I will resign as president of Eddards Construction, Inc. My son, Russell Avalos, will operate and manage the small construction company.

9. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)

   No

10. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)

    No

11. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture.

    None

12. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above items. In particular, identify all investments, obligations, liabilities, or other relationships which involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

    I do not see any actual or potential conflicts of interest. In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

13. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or

potential conflicts of interest should you be confirmed to the position for which you are nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 7, 2009

The Honorable Tom Harkin
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Edward M. Avalos, who has been nominated by President Obama for the position of Undersecretary for Marketing and Regulatory Affairs, Department of Agriculture.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

June 24, 2009

Mr. Raymond J. Sheehan, Director
USDA Office of Ethics
1400 Independence Avenue, SW
Rm 347-W J. L. Whitten Building
STOP 0122
Washington, DC 20250-0122

Dear Mr. Sheehan:

The purpose of this letter is to explain the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary for Marketing and Regulatory Programs, U.S. Department of Agriculture. As Under Secretary of Agriculture for Marketing and Regulatory Programs, I may also hold a general membership on the Board of Directors of the Commodity Credit Corporation. The steps detailed below take into account any potential conflicts or appearances thereof associated with the Commodity Credit Corporation position also.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I further understand that the interests of the following persons are imputed to me: any spouse or minor child of mine, any general partner of a partnership in which I am a limited or general partner; any entity in which I serve as officer, director, trustee, general partner, or employee; and any person or entity with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position as Director, Marketing and Development Division, New Mexico Department of Agriculture. For one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which the New Mexico Department of Agriculture is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R.
§ 2635.502(d).

As an employee of the State of New Mexico Department of Agriculture, I currently participate in a defined benefit retirement plan operated by the New Mexico Educational Retirement Board. Upon termination of my employment relationship, my employer will cease making contributions to this plan. Under this plan, I am to receive $4,692 per month beginning at age 57. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of New Mexico Educational Retirement Board to provide this employment benefit, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208 (b)(1) or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208 (b)(2).

I also am owner and President of Eddards Construction, Inc., of Las Cruces, New Mexico. Upon confirmation, I will resign my position as President of the company. I will continue to have a financial interest in this entity, but I will not manage it or provide any other services to it. Instead, I will receive only passive investment income from it. Pursuant to 18 U.S.C. § 208 (a), I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Eddards Construction, Inc.

I also own four rental residential properties and one parcel of undeveloped land, all located in Las Cruces, NM. Pursuant to 18 U.S.C. § 208 (a), I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the value of these properties. Additionally, the rental properties are subject to mortgages and the undeveloped lot is subject to a repayment of a personal loan from the following entities, all located in Las Cruces, New Mexico:

- Sun Trust Mortgage
- Bank 34
- Bank of the Rio Grande

Pursuant to 5 C.F.R. § 2635.502, I will not participate personally and substantially in any particular matter involving specific parties in which any of these entities is a party or represents a party, unless I am authorized to participate.

As part of my duties as a New Mexico State employee, I also serve as Vice Chairman of the New Mexico State Land Office Advisory Board (Board). Upon confirmation, I will resign from the Board. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which the Board is a party or represents a party, unless I am first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Sincerely,

Edward M. Avalos

Edward M. Avalos

SF278 (Rev. 08/2000)
5 C.F.R Part 2634
U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

Date of Appointment, Candidacy, Election or Nomination (*Month, Day, Year*)	Reporting Status (*Check appropriate boxes*)	Incumbent [ ]	Calendar Year Covered by Report	New Entrant, Nominee, [X] or Candidate	Termination Filer [ ] / Termination Date (*If Applicable*) (*Month, Day, Year*)
Reporting Individual's Name	Last Name: Avalos			First Name and Middle Initial: Edward M.	
Position for Which Filing	Title of Position: Undersecretary for Marketing and Regulatory Programs			Department or Agency (*If Applicable*): Agriculture	
Location of Present Office (or forwarding address)	Address (*Number, Street, City, State, and ZIP Code*): 3190 S. Espina, Las Cruces, NM 88003			Telephone No. (*Include Area Code*): (575) 642-6942	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: None				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Agriculture, Nutrition, and Forestry			Do You Intend to Create a Qualified Diversified Trust? [ ] Yes [X] No	
Certification: I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: Edward M Avalos			Date (*Month, Day, Year*): 6/24/09	
Other Review (If desired by agency)	Signature of Other Reviewer:			Date (*Month, Day, Year*):	
Agency Ethics Official's Opinion: On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: RKG			Date (*Month, Day, Year*): 6/26/09	
Office of Government Ethics Use Only	Signature: [illegible]			Date (*Month, Day, Year*): 7/7/09	

Comments of Reviewing Officials (*If additional space is required, use the reverse side of this sheet*)

(*Check box if filing extension granted & indicate number of days* _____) [ ]

RECEIVED
JUN 25 2009

(*Check box if comments continued on the reverse side*) [ ]

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (*Liabilities*)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (*Agreements or Arrangements*)-- Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Agency Use Only

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JUL 06 2009

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U.S. Office of Government Ethics

Reporting Individual's Name: Edward M. Avalos

SCHEDULE A

Page Number: 1

Assets and Income (BLOCK A)	Valuation of Assets at close of reporting period (BLOCK B)										Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. (BLOCK C)											
											Type			Amount								
For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income. For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual amount of any honoraria over $200 of your spouse). None ☐	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Trust	Dividends	Interest	None (or less than $201)	$201 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples: Central Airlines Common			X									X			X								
Examples: Doe Jones & Smith, Hometown, State																						Law Partnership Income $150,000	
Examples: Kempstone Equity Fund																							
Examples: IRA: Heartland 500 Index Fund																X							
1 Residential rental properties: a. Property # 1, Las Cruces, NM					X									X									
1 b. Property # 2, Las Cruces, NM														X									
2 c. Property # 3, Las Cruces, NM														X									
2 d. Property # 4, Las Cruces, NM					X									X									
3 New Mexico State University 403(b) Annuity (Fixed) through American General Insurance Company			X										X										
4 Wells Fargo Bank-Checking													X	X									
5 Bank of the Rio Grande-Savings Las Cruces, NM														X									
6 New Mexico Department of Agriculture Director, Marketing & Development Div. (employer)																						$89,867.21 $26,456.29	2008 2009

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Edward M. Avalos

SCHEDULE A continued

(Use only if needed)

Page Number: 2

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: *type and amount.* If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	Excepted Investment Fund	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	Over $1,000,000 *	$500,001 - $1,000,000	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	Over $50,000,000	Excepted Trust	Excepted Investment Fund	Type: Dividends	Type: Rent	Type: Interest	Amount: None (or less than $201)	Amount: $201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $1,000,000*	$100,001 - $1,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	New Mexico Education Retirement Board Defined Benefit Plan																	X										Will receive $4,692/mo at age 57	
2	Undeveloped Lot, Las Cruces, NM				X													X											
3	Eddards Construction, Inc. Las Cruces, NM		X															X											
4																													
5																													
6																													
7																													
8																													
9																													

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name: Edward M. Avalos

SCHEDULE B

Page Number: 3

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
	Example: Central Airlines Common	x			2/1/99			x									
1																	
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1			
2			
3			
4			
5			

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Reporting Individual's Name: Edward M. Avalos

SCHEDULE C

Page Number: 4

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☐

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	$10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x								
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand					x						
1	Sun Trust Mortgage Las Cruces, NM 88011	Mortgage on rental property Property # 1	2007	6.5%	30 yrs.					X						
2	Sun Trust Mortgage Las Cruces, NM 88011	Mortgage on rental property Property # 4	2007	6.5%	30 yrs.					X						
3	Bank 34 Las Cruces, NM 88011	Mortgage on rental property Property # 3	2007	7%	30 yrs.				X							
4	Bank of the Rio Grande Las Cruces, NM 88011	Mortgage on rental property Property # 2	2007	6.5%	1 yr.				X							
6	Bank of the Rio Grande Las Cruces, NM 88011	Personal loan re: undeveloped lot	2007	6.5%	On demand		X									

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1	I have a defined benefit retirement plan through New Mexico Educational Retirement Board. Upon termination of my employment with the State of New Mexico, the employer will cease making contributions to this plan. I will receive	New Mexico Educational Retirement Board Las Cruces, NM	6/80
2	$4,692 per month beginning at age 57. I will retain this retirement plan.		
3	NMSU 403(b) defined contribution plan. No contributions are made by NMSU. I will retain this plan.	New Mexico State University Las Cruces, NM	1985
4			
5			
6			

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Reporting Individual's Name	SCHEDULE D	Page Number
Edward M. Avalos		5

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious social, fraternal, or political entities and those solely of an honorary nature.

None ☐

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1	New Mexico Department of Agriculture	State Agency	Director-Marketing	6/80	Present
2	Eddards Construction, Inc., Las Cruces, NM	S Corporation	President	7/87	Present
3	New Mexico State Land Office-Advisory Board	Residential Construction	Vice Chairman	2006	Present
4					
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None ☐

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1	New Mexico Department of Agriculture	State Government Agency
2		
3		
4		
5		
6		

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BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).

   Bart Hamilton Chilton, Bartholomew Chilton

2. Date and place of birth.

   May 1, 1960 -- Wilmington, Delaware, USA

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).

   Spouse: *Sherry Chilton (formerly, Sherry Daggett, Sherry Hayes)*
   Occupation: *Management Executive (retired from Ernst and Young LLP)*

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

   Purdue University 1979-1982

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

1983	*City of Fort Wayne, Indiana*	*Aide to the Mayor*
1983-84	*Mondale for President*	*Field Organizer*
1985-86	*U.S. Hse. of Reps. Hon. Terry Bruce*	*Legislative Assistant*
1987-89	*U.S. Hse. of Reps. Hon. Jim Jontz*	*Legislative Director*
1989-94	*U.S. Hse. of Reps. Hon. Jill Long*	*Legislative Director*
1995	*U.S. Hse. of Reps. Hon. Earl Pomeroy*	*Legislative Director*
1995-1999	*U.S. Dept. of Agriculture*	*Policy Dir. Rural Dev.*
1999-2001	*U.S. Dept. of Agriculture*	*Deputy Chief of Staff*
2001	*Bion Environmental Technologies*	*Vice President*
2001-05	*U.S. Senate Hon. Tom Daschle*	*Sen. Policy Advisor*
2005-06	*U.S. Farm Credit Administration*	*Assistant to the Board*
2006-07	*National Farmers Union*	*Chief of Staff/VP Govt.*
2006-07	*Association of Family Farms*	*Director/Treasurer*
2006-07	*Bion Environmental Technologies*	*Board Member*
2007-09	*Commodity Futures Trading Commission*	*Commissioner*

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

   No.

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service grade levels and whether such positions were elected or appointed.

1985-86	*U.S. Hse. of Reps. Hon. Terry Bruce*	*Salaried Employee*
1987-89	*U.S. Hse. of Reps. Hon. Jim Jontz*	*Salaried Employee*
1989-94	*U.S. Hse. of Reps. Hon. Jill Long*	*Salaried Employee*
1995	*U.S. Hse. of Reps. Hon. Earl Pomeroy*	*Salaried Employee*
1995-1999	*U.S. Dept. of Agriculture*	*Schedule C (GS-15)*
1999-2001	*U.S. Dept. of Agriculture*	*Senior Exec. Service*
2001-05	*U.S. Senate Hon. Tom Daschle*	*Salaried Employee*
2005-06	*U.S. Farm Credit Administration*	*Schedule C*
2007-09	*Commodity Futures Trading Commission*	*Commissioner*

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

   None.

9. Political Affiliation: The statute creating the Commodity Futures Trading Commission requires that no more than three members be from the same political party. List your current political party registration or affiliation.

   Democrat.

10. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

    Board Member for the following:
    -Columbia Beach Citizens Improvement Association (volunteer position)
    -Association of Family Farms (volunteer position)

11. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum

extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

All of the speeches, remarks and statements may be found at cftc.gov

September 21, 2009 Statement of Commissioner Bart Chilton Regarding the CFTC Investigation of Silver Markets, Commodity Futures Trading Commission

September 15, 2009 Speech of Commissioner Bart Chilton, "Moment of Inertia", Institutional Investors Carbon Forum

September 4, 2009 Statement of Commissioner Bart Chilton on CFTC's New Transparency Initiatives, Commodity Futures Trading Commission

September 2, 2009 Statement of Commissioner Bart Chilton, Joint Meetings on Harmonization of Regulation

August 11, 2009Statement by Commissioner Bart Chilton, "The Right Road to Reform", Commodity Futures Trading Commission

August 4, 2009Speech of Commissioner Bart Chilton, "Sense of Balance", American Public Gas Association Annual Meeting

July 28, 2009, Statement by Commissioner Bart Chilton, Commodity Futures Trading Commission

July 7, 2009 Statement of CFTC Commissioner Bart Chilton on Speculative Limit Hearings and Increased Transparency, CFTC

June 24, 2009 Speech of Commissioner Bart Chilton, "Picture Puzzles", Third Annual International Commodity Markets, Manipulation Enforcement Conference

June 18, 2009 Statement of Commissioner Bart Chilton on the Administration's Plan for Financial Regulatory Reform, CFTC

June 11, 2009 Speech of CFTC Commissioner Bart Chilton, "Green CAT" Markets: You Gotta Show Some Guts, Chicago Climate Exchange & Chicago Climate Futures Exchange, Sixth Annual Meeting May 20, 2009, Statement of Commissioner Bart Chilton Regarding CFTC Commissioners, Commodity Futures Trading Commission

May 13, 2009, Statement of Commissioner Bart Chilton on Regulatory Reforms for OTC Markets, Commodity Futures Trading Commission

April 29, 2009, Remarks of Commissioner Bart Chilton to the New York Regional Office: "The Luckier We Get", Commodity Futures Trading Commission

March 20, 2009, Remarks of Commissioner Bart Chilton to the American Bar Association: "Ponzimonium", Commodity Futures Trading Commission

February 10, 2009, Remarks by Commissioner Bart Chilton: "The Commodity Coaster", Washington Agricultural Roundtable, Brookings Institution

February 4, 2009, Statement of Commissioner Bart Chilton Regarding House Agriculture Committee Futures Industry Oversight Hearings and Consideration of Legislation to Improve Regulation of Futures and Derivatives Markets, Commodity Futures Trading Commission

January 28, 2009, Speech by Commissioner Bart Chilton: "Years That Answer", International Quality Productivity Center, 3rd Carbon Trading Conference

December 18, 2008, Statement of Commissioner Bart Chilton Regarding the Nomination of Gary Gensler, Commodity Futures Trading Commission

December 12, 2008, Remarks of Commissioner Bart Chilton: "Driving on Ice", European Union Agriculture and Financial Market Attachés, French Embassy

November 19, 2008, Speech by Commissioner Bart Chilton: "Banquet of Consequences", Environmental Markets Association 12th Annual Fall Conference

November 14, 2008, Statement of Commissioner Bart Chilton Regarding Central Counterparties for Credit Default Swaps, Commodity Futures Trading Commission

November 11, 2008, Statement of Commissioner Bart Chilton, Commodity Futures Trading Commission

October 28, 2008, Statement of Commissioner Bart Chilton Regarding CFTC/SEC Merger, Commodity Futures Trading Commission

October 8, 2008, Statement of Commissioner Bart Chilton on Regulation of Credit Default Swaps, Commodity Futures Trading Commission

September 17, 2008, Opening Remarks by Commodity Futures Trading Commission Commissioner Bart Chilton, CFTC Cooperative Enforcement Conference

August 14, 2008, Remarks of Commissioner Bart Chilton: "A Photographer's Eye", Michigan Agri-Business Association

July 29, 2008, Opening Statement of Commissioner Bart Chilton: "Our Progressive Discovery", Agricultural Advisory Committee, Commodity Futures Trading Commission

July 15, 2008, Statement of Commissioner Bart Chilton Regarding Global Markets Advisory Committee, Commodity Futures Trading Commission

June 25, 2008, Speech by Commissioner Bart Chilton: "The Most Important Thing", Finance IQ, Second Carbon Trading Conference

June 13, 2008, Statement of Commissioner Bart Chilton on the Increasing Transparency and Accountability in Oil Markets Act, Commodity Futures Trading Commission

June 10, 2008, Remarks of Commissioner Bart Chilton, Energy Markets Advisory Committee, Commodity Futures Trading Commission

April 29, 2008, Speech by Commissioner Bart Chilton: "Wicked Awesome" Financial Regulation, National Futures Association

April 22, 2008, Statement of Commissioner Bart Chilton: "Heartburn in the Heartland", Agricultural Markets Roundtable, Commodity Futures Trading Commission

April 21, 2008, Speech by Commissioner Bart Chilton: "The Ancient Art of Glassmaking", Future and Options Association, London, England

April 16, 2008, Statement by Commissioner Bart Chilton Regarding the President's Remarks on Climate Change, Commodity Futures Trading Commission

April 15, 2008, Remarks by Commissioner Bart Chilton: "We Can Do Better", Commodity Futures Trading Commission

April 10, 2008, Remarks by Commissioner Bart Chilton: "It's Not Easy Being Green ... Markets, in the US", Carbon Roundtable

March 30, 2008, Statement of Commissioner Bart Chilton on Treasury Blueprint, Commodity Futures Trading Commission

March 28, 2008, Statement of Commissioner Bart Chilton regarding Secretary Paulson's Treasury Department Blueprint on Regulatory Reform, Commodity Futures Trading Commission

March 17, 2008, Statement of Commissioner Bart Chilton Regarding NYMEX Emissions Trading, Commodity Futures Trading Commission

March 11, 2008, Statement of Commissioner Bart Chilton Regarding CFTC-SEC Cooperation, U.S. Securities and Exchange Commission

February 27, 2008, Remarks by Commissioner Bart Chilton: "Properties of Bamboo", Futures Industry Association of Asia, Hong Kong

February 8, 2008, Speech by Commissioner Bart Chilton: CFTC's 'American Idols': Reality Regulation, Commodity Markets Council

December 6, 2007, Remarks by Commissioner Bart Chilton: "A Time for Every Purpose", Agricultural Advisory Committee Meeting, Commodity Futures Trading Commission

November 29, 2007, Remarks by Commissioner Bart Chilton: "A Better Understanding: Current Issues with SEC; Exempt Commercial Market Regulation", Futures Industry Association Expo Conference, Washington Regulators' Panel

November 13, 2007, Speech by Commissioner Bart Chilton: "Let's Not 'Dial M for Merger': CFTC's Principles-Based Regulation – A Success Story", Futures Industry Association, Law and Compliance Luncheon

November 6, 2007, Speech by Commissioner Bart Chilton: "CFTC and Energy Markets: The Cop on the Beat – Protecting Consumers", American Public Gas Association

October 16, 2007, Speech by Commissioner Bart Chilton: "Not Your Father's Regulator", Futures Industry Association, Law and Compliance Luncheon

September 18, 2007, Remarks by Commissioner Bart Chilton: "Dark Markets," Hearing to Examine Trading on Regulated Exchanges and Exempt Commercial Markets, Commodity Futures Trading Commission

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?

   Yes.

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

   None.

3. Have you ever received a government guaranteed student loan? If so, has it been repaid?

   Yes. It has been paid in full.

4. If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? (If so, explain.)

   No.

5. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)

   No.

6. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)

   No.

7. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Commodity Futures Trading Commission, or before Congress involving matters within the jurisdiction of this Committee or the Commodity Futures Trading Commission.

   None.

8. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above

items. In particular, identify all investments, obligations, liabilities, or other relationships which involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

There are no such conflicts or potential conflicts. Should such a conflict or potential conflict arise, I will consult with the designated agency ethics officer and take any steps necessary to resolve it.

9. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.

   None.

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

May 26, 2009

The Honorable Tom Harkin
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510-6000

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Bart H. Chilton, who has been nominated by President Obama for the position of Commissioner, Commodity Futures Trading Commission.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Bart Chilton
Commissioner

(202) 418-5060
(202) 418-5620 Facsimile
bchilton@cftc.gov

April 1, 2009

Mr. John P. Dolan
Counsel and Alternate Designated Ethics Official
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Mr. Dolan:

This letter describes the steps I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner for the Commodity Futures Trading Commission ("CFTC").

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver pursuant to section 208(b)(1) or qualify for a regulatory exemption pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse and minor children; any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Sincerely,

Bart H. Chilton

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Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209 - 0001

Date of Appointment, Candidacy, Election, or Nomination *(Month, Day, Year)*	**Reporting Status** (Check Appropriate Boxes)	Incumbent ☐	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate ☒	Termination Filer ☐ Termination Date *(If Applicable) (Month, Day, Year)*
Reporting Individual's Name	Last Name: Chilton			First Name and Middle Initial: Bart H	
Position for Which Filing	Title of Position: Commissioner			Department or Agency *(If Applicable)*: Commodity Futures Trading Commission	
Location of Present Office (or forwarding address)	Address *(Number, Street, City, State, and ZIP Code)*: Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581			Telephone No. *(Include Area Code)*: 202.418.5060	
Position(s) Held with the Federal Government During the Preceding 12 Months *(If Not Same as Above)*	Title of Position(s) and Date(s) Held: Commissioner, CFTC August 14, 2007 to Present				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Committee on Agriculture, Nutrition and Forestry			Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual			Date *(Month, Day, Year)*: 4-1-09	
Other Review (If desired by agency)	Signature of Other Reviewer			Date *(Month, Day, Year)*: 05/20/2009	
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: Tony S. Quest			Date *(Month, Day, Year)*: 5.20.09	
Office of Government Ethics Use Only	Signature			Date *(Month, Day, Year)*: 5/26/09	

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if filing extension granted & indicate number of days _____) ☐

(Check box if comments are continued on the reverse side) ☐

Fee for Late Filing
Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a $200 fee.

Reporting Periods
Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A–The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B–Not applicable.

Schedule C, Part I (Liabilities)–The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)–Show any agreements or arrangements as of the date of filing.

Schedule D–The reporting period is the preceding **two** calendar years and the current calendar year up to the date of filing.

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MAY 20 2009

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U.S. Office of Government Ethics

Reporting Individual's Name: Chilton, Bart H.

SCHEDULE A

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual acount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	Amount: $201 - $1,000	Amount: $1,001 - $2,500	Amount: $2,501 - $5,000	Amount: $5,001 - $15,000	Amount: $15,001 - $50,000	Amount: $50,001 - $100,000	Amount: $100,001 - $1,000,000	Amount: Over $1,000,000*	Amount: $1,000,001 - $5,000,000	Amount: Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Common				x												x						x										
	Doe Jones & Smith, Hometown, State			x																												Law Partnership Income $130,000	
	Kempstone Equity Fund					x								x										x									
	IRA: Heartland 500 Index Fund							x						x											x								
1	AGG- ISHARES Barclays US Aggr Bond			x										x									x										
2	EEM-ISHARES MSCI Emer. Mkts Index			x										x								x											
3	EFA-ISHARES TR MSCI EAFE Index FD			x										x									x										
4	IWD-ISHARES Russell 1000 Value IND				x									x										x									
5	IWF-ISHARES Russell 1000 Growth				x									x										x									
6	PIMCO Total Return INST Class		x											x								x											

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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Reporting Individual's Name: Chilton, Bart H.

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	IWN-ISHARES TR Russell 2000 Value		x											x								x											
2	IWO-ISHARES TR Russell 2000 Growth		x											x								x											
3	SBSPX Legg Mason Partners S&P 500		x											x							x												
4	Smith Barney "XCA9X" Scholars Choice Equity 80% 529 Plan CUSIP # 80705P294000		x											x							x												
5	Dreyfus Money Market CUSIP # 262016108000		x											x							x												
6	Ernst & Young, LLP																															Spouse Salary	
7	Ernst & Young, LLP --401(K) --Fidelity Magellan Class K (FMGKX)			x										x								x											
8	Ernst & Young, LLP --401(K) --Fidelity Low Price (MCV)			x										x								x											
9	ALEAX RVS Large Cap Large Cap Equity Fund Class A		x											x							x												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Chilton, Bart H.

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Trust	Excepted Investment Fund	Type: Dividends	Type: Rent	Type: Interest	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Ernst & Young, LLP -- 401(K) --Fidelity Balance																										
2	Ernst & Young, LLP -- 401(K) --Dodge & Cox Stock (DODGX)																										
3	Ernst & Young, LLP -- 401(K) --American Funds Europac Growth R5																										
4	Ernst & Young, LLP -- 401(K) -- Managers Freemont Bond		x														x										
5	Vanguard Target RET 2015 Inv CL (VTXVX)																										
6																											
7																											
8																											
9																											

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name: Chilton, Bart H.

SCHEDULE B

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
Example:	Central Airlines Common	x			2/1/99			x									
1																	
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1			
2			
3			
4			
5			

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Reporting Individual's Name: Chilton, Bart H.

SCHEDULE C

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None [x]

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	$10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x								
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand					x						
1																
2																
3																
4																
5																

Category of Amount or Value (x)

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None [x]

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1			
2			
3			
4			
5			
6			

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Reporting Individual's Name	SCHEDULE D	Page Number
Chilton, Bart H.		6 of 6

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious social, fraternal, or political entities and those solely of an honorary nature.

None ☐

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1	Farmers Educational & Cooperative Union of America	Non-Profit Trade Association	Chief of Staff	06/2006	08/2007
2	Association of Family Farms	510(c)(3)	Director/Officer	10/2006	08/2007
3	Bion Environmental Technologies	For Profit Company	Director	10/2006	08/2007
4					
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None ☐

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1	Farmers Educational & Cooperative Union of America	Chief of Staff
2		
3		
4		
5		
6		

Prior Editions Cannot Be Used.

BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
Scott Douglas O'Malia

2. Date and place of birth.
December 1, 1967 South Bend, IN

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).
Married
Marissa Reyes O'Malia, formerly Marissa Jane Reyes
Doctor of Chiropractic
Dr. Marissa R. O'Malia, P.C.
2440 M Street, NW #807, Washington, D.C. 20037

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
9/85-12/86 Lansing Community College, Kyoto Education Center Japan
1/87-5/90 University of Michigan, Ann Arbor, BA LSA 5/4/90

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

Public Securities Association -- 1990-1991
Assistant Political Manager
Managed PSA PAC activities that included fundraising, correspondence, Federal Election Commission filing, and special events. Drafted weekly updates on political events for industry newsletter.

Senator McConnell -- 1991-2001
Legislative Staff
Responsible for appropriations as well as energy, environment, education, tax policy, and commercial policy issues.

Mirant -- 2001 - 2003
Director
Developed a policy organization within Mirant and financial trade associations to bring together commercial interests, investor relations and legal staff to review federal legislative initiatives and develop the appropriate policy response. Also worked with international business units regarding merger activity and terrorism insurance.

U.S. Senate Energy Committee -- 2003-2004
Professional Staff
Developed policies related to oil and natural gas markets including conducting congressional hearings and drafting legislative initiatives.

Energy and Water Development Subcommittee, Committee on Appropriations -- 2004-Present
Clerk
Responsibilities include drafting and passage of the Energy and Water Development appropriation legislation providing funding to the Department of Energy ($26 billion budget), U.S. Army Corps of Engineers ($ 5.3 billion budget), and Bureau of Reclamation ($1 billion budget).

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, and type of discharge received.
No Military Service

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service, grade levels, and whether such positions were elected or appointed.
U.S. Senator McConnell
U.S. Senate Committee on Energy and Natural Resources
U.S. Senate Committee on Appropriations

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.
Worker Health Protection Program Award 2006 -- For assistance to Department of Energy Defense Nuclear Workers

9. Political Affiliation: The statute creating the Commodity Futures Trading Commission requires that no more than three members be from the same political party. List your current political party registration or affiliation.
Republican

10. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.
Key School PTA, Arlington VA
Gunston Middle School PTA, Arlington, VA
Stennis Fellows, Washington, D.C.

11. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please

include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

N/A

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?
Yes

2. List sources, amounts and dates of all expected receipts from deferred income arrangements, stock options, uncompleted contracts, and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.
Mirant warrants provided on 1/3/06. Qty: 119 Warrants - $1768 value,
Mirant stock Qty: 37 shares - $661 value
Attachment: Conflict of Interest letter

3. Have you ever received a government guaranteed student loan? If so, has it been repaid?
No

4. If confirmed, do you have any plans, commitments, or agreements to pursue or continue outside employment or engage in or continue any business or vocation, with or without compensation, during your service with the government? (If so, explain.)
No

5. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)
No

6. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)
No

7. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Commodity Futures Trading Commission, or before Congress involving matters within the jurisdiction of this Committee or the Commodity Futures Trading Commission.
No

8. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above questions. In particular, identify all investments, obligations, liabilities, or other relationships that involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.
Attachment: Conflict of Interest Letter

9. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.
Attachment: Conflict of Interest Letter

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

September 18,2009

The Honorable Blanche L. Lincoln
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Scott D. O'Malia, who has been nominated by President Obama for the position of Commissioner, Commodity Futures Trading Commssion.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

August 31, 2009

Mr. John P. Dolan
Counsel and Alternate Designated
Agency Ethics Official
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Mr. Dolan:

In regard to your review of my public financial disclosure report ("SF 278") and in anticipation of my nomination by President Obama, I wish to advise you of the steps I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed as Commissioner of the Commodity Futures Trading Commission.

As required by 18 U.S.C. 208 (a), I will not participate personally or substantially in any particular matter that has a direct and predictable effect on my financial interest or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. 208 (b)(1), or qualify for a regulatory exemption pursuant to 18 U.S.C. 208 (b)(2). I understand that the interests of the following person are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I own warrants for shares of Mirant Corporation common stock. Within 90 days of confirmation, I will divest my warrants in the Mirant Corporation because ownership of this security is a prohibited interest pursuant to CFTC's Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission at 17 C.F.R. § 140.735-2a(b)(2). If I divest the warrants by exercising them, I will also divest the resulting stock within 90 days of my confirmation. Until this divestiture has been completed, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Mirant Corporation.

Finally I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to commitments I have made in this and any other ethics agreement.

Sincerely,

Scott D. O'Malia

SF278 (Rev. 03/2000)
5 C.F.R Part 2634
U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

Date of Appointment, Candidacy, Election or Nomination (*Month, Day, Year*)	Reporting Status (*Check appropriate boxes*)	Incumbent [ ]	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate [X]	Termination Filer [ ] / Termination Date (*If Applicable*) (*Month, Day, Year*)
Reporting Individual's Name	Last Name: O'Malia			First Name and Middle Initial: Scott D.	
Position for Which Filing	Title of Position: Commisioner			Department or Agency (*If Applicable*): Commodity Futures Trading Commission (CFTC)	
Location of Present Office (or forwarding address)	Address (*Number, Street, City, State, and ZIP Code*): 188 Dirksen Senate Office Building, U.S. Senate Washington, D.C.			Telephone No. (*Include Area Code*): 202-224-2039	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: Clerk, Senate Appropriations Committee, Subcommitte on Energy and Water Development 2004-Present				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Senate Agriculture Committee			Do You Intend to Create a Qualified Diversified Trust? [ ] Yes [X] No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: Scott D. O'Malia			Date (*Month, Day, Year*): 8/12/09	
Other Review (If desired by agency)	Signature of Other Reviewer: John P. Doherty			Date (*Month, Day, Year*): 09-11-09	
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: Alan M. Blair			Date (*Month, Day, Year*): 9-11-09	
Office of Government Ethics Use Only	Signature: Matt L. Cooke			Date (*Month, Day, Year*): 9/15/09	

Comments of Reviewing Officials (*If additional space is required, use the reverse side of this sheet*)

(*Check box if filing extension granted & indicate number of days* _____) [ ]

(*Check box if comments are continued on the reverse side*) [ ]

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)-- Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Agency Use Only

OGE Use Only

SEP 11 2009

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U.S. Office of Government Ethics

Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A

Page Number: 2

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual acount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	Amount: $201 - $1,000	Amount: $1,001 - $2,500	Amount: $2,501 - $5,000	Amount: $5,001 - $15,000	Amount: $15,001 - $50,000	Amount: $50,001 - $100,000	Amount: $100,001 - $1,000,000	Amount: Over $1,000,000*	Amount: $1,000,001 - $5,000,000	Amount: Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Common				x												x						x										
	Doe Jones & Smith, Hometown, State			x																												Law Partnership Income $130,000	
	Kempstone Equity Fund					x								x										x									
	IRA: Heartland 500 Index Fund							x						x											x								
1	Columbia Cash Reserves (Money Market Fund) NXRXX OTC		x											x							x												
2	American Century Fund Mutual Fund TXCVX		x											x								x											
3	Columbia Small Cap Values Mutual Fund CSCZX		x											x								x											
4	Dodge and Cox Stock Mutual Fund DODGX		x											x										x									
5	Madison Mosaic Mid Cap Mutual Fund GTSGX		x											x								x											
6	T. Rowe Price Summit Mutual Mutual Fund PRSMX				x									x										x									

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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U.S. Office of Government Ethics

Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Page Number: 3

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Eaton Vance Large Cap Value Mutual Fund EHSTX			x										x										x									
2	Goldman Sachs Mid Cap Value Mutual Fund GCMAX			x										x									x										
3	Thornburg International Value Mutual Fund TGVIX			x										x									x										
4	Columbia Cash Reserve Mutal Fund NCRXX	x												x							x												
5	Target Focus Four Unit Investment Trust FTCROX			x										x							x												
6	Target Focus Four Unit Investment Trust FOCFNX		x											x							x												
7	Target Focus Four Unit Investment Trust FCUWZX		x											x							x												
8	Pimco Total Return Institutional Mutual Fund PTTRX		x											x								x											
9	Columbia Marsico 21st Century Mutual Fund NMYAX		x											x							x												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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5 C.F.R Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Page Number: 4

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (None ☐)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Bond Fund of America Mutual Fund ABNDX	x												x							x												
2	Target Focus Four Unit Investment Trust FTOFDX	x												x							x												
3	Janus Worldwide Mutual Fund JAWWX	x												x							x												
4	Janus Orion Mutual Fund JORNX	x												x							x												
5	Janus Short Term Bond Mutual Fund JASBX	x												x							x												
6	Columbia Value Restructuring Mutual Fund UMBIX Spouse		x											x							x												
7	Fidelity Advisor Leveraged Stock Mutual Fund FLVIX Spouse		x											x							x												
8	Harbor International Institutional Mutual Fund HAINX Spouse		x											x							x												
9	Royce Low Priced Stock Mutual Fund RYLPX Spouse		x											x							x												

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Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Page Number: 5

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	MFS Value Class A Mutual Fund MEIAX Spouse		x											x							x												
2	Bond Fund of America Mutual Fund ABNDX Spouse	x												x							x												
3	Capital World Growth VA 529 Mutual Fund CWIAX			x										x							x												
4	Capital Income Builder VA 529 Mutual Fund CIRAX			x										x							x												
5	Bond Fund of America VA 529 Mutual Fund CFAAX			x										x							x												
6	EuroPacific Growth VA 529 Mutual Fund CEUAX			x										x							x												
7	Growth Fund of America VA 529 Mutual Fund CGFAX			x										x							x												
8	New Perspective Fund VA 529 Mutual Fund CNPAX			x										x							x												
9	Washington Mutual Investor Mutual Fund CWMAX			x										x							x												

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Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Page Number: 6

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000 *	Over $1,000,000 *	$5,000,001 - $25,000,000	Over $50,000,000	Excepted Trust	Type: Dividends	Type: Interest	Amount: None (or less than $201)	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$50,001 - $100,000	Over $1,000,000*	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Janus Research Fund Mutual Fund JAMRX													x								
2	Ishares Russell 2000 Value Index Fund IWN	x												x								
3	M&T Bank Checking/Savings												x	x								
4	Senate Federal Credit Union Checking/Savings												x	x								
5	Wachovia Crown Banking- Checking	x											x	x								
6	Bank of America Certificate of Deposit			x									x	x								
7	Income (Spouse) Med Practice Washington, D.C. S-Corp W2																				Business Income	
8	SCORP Equity (Spous) Medical Practice, Wash, D.C. Marissa R. O'Malia, PC)																				Business Income	
9	IX Inc. Toronto Canada Comp Software, LLC																				Business Income $20,000.00	

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5 C.F.R Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Cisco Systems Stock CSCO / NASDQ		x																		x												
2	Citigroup, Inc. Stock C / NYSE		x														x				x												
3	Home Depot Stock HD / NYSE		x																		x												
4	Travelers Stock TRV / NYSE		x																		x												
5	Mirant Warrarnts WTS/NYSE Uninvested warrants, 119 units Strike price $21, exp 1/3/2011		x																		x												
6	Deutsche Bank		x																		x												
7	Arch Capital Group		x																		x												
8	Logitech International		x																		x												
9	Qiagen		x																		x												

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Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

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Page Number: 8

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	AFLAC Inc		x																		x												
2	AT&T Inc.,		x																		x												
3	Adobe Systems, Inc		x																		x												
4	Albemarle Corp		x																		x												
5	Allianz Societas Europea AZM:NYSE		x																		x												
6	Altria Group		x																		x												
7	Amer International Group		x																		x												
8	Ametek Inc.		x																		x												
9	Amphenol Corp		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Ansys Inc.		x																		x												
2	AON Corp		x																		x												
3	Apple Inc.		x																		x												
4	Arcelormittal		x																		x												
5	BASF		x																		x												
6	BNP Parisbas		x																		x												
7	Bally Technologies		x																		x												
8	Bank of America		x																		x												
9	Bard CR, Inc.		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Berry Pete Co.		x																		x												
2	Best Buy, Inc.		x																		x												
3	Brandywine Blue			x										x							x												
4	CBS Corp		X																		x												
5	CVS Caremark Corp		x																		x												
6	Catepillar, Inc.		x																		x												
7	Celanese Corp.		x																		x												
8	Chevron Corp		x																		x												
9	China Netcom Group CN:NYSE		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	China Petroleum and Chemical Corp.		x																		x												
2	CISCO Inc			x																	x												
3	Columbia Marsico 21st Century			x										x							x												
4	Columbia Value and Restructuring			x										x							x												
5	Commscope, Inc.		x																		x												
6	Companhia Vale Do Rio Doce RIO: DOW		x																		x												
7	Conoco Philips		x																		x												
8	Coventry Health		x																		x												
9	Credit Suisse		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Dean Foods Co		x																		x												
2	Deere and Company		x																		x												
3	Devry, Inc		x																		x												
4	Dolan Media		x																		x												
5	Dolby Laboratories		x																		x												
6	Dow Chemicals		x																		x												
7	Dreamworks		x																		x												
8	EMC Corporation		x																		x												
9	ENI SPA Enia SpA:OTC		x																		x												

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SCHEDULE A continued

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Assets and Income (BLOCK A)	Valuation of Assets at close of reporting period (BLOCK B)													Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. (BLOCK C)														
None ☐														Type				Amount										
	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1 Eaton Vance			x																x												
2 Emerson Electric		x																	x												
3 Equitable Resources EQT:NYSE		x																	x												
4 Exxon Mobil Corp		x																	x												
5 Freddie Mac		x																	x												
6 Federal National MTG Assoc.			x																x												
7 Fidelity Leverage Company Stock		x											x						x												
8 First Solar Inc		x																	x												
9 FISERV Inc		x																	x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Fortis		x																		x												
2	GATX Corp GMT: NYSE		x																		x												
3	General Electric		x																		x												
4	Gilead Sciences, Inc		x																		x												
5	Glaxosmithkline, PLC		x																		x												
6	Google, Inc		x																		x												
7	Habor International			x										x							x												
8	Hartford Financial Services		x																		x												
9	HBOS PLC		x																		x												

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SCHEDULE A continued

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Page Number: 15

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	HEICO Corp		x																		x												
2	Hewlett-Packard, Co		x																		x												
3	Honeywell International		x																		x												
4	Index Corp INDQY: Pink Sheets		x																		x												
5	Indexx Labs Corp IDXX: Nasdaq		x																		x												
6	HIS Inc		x																		x												
7	ING Group		x																		x												
8	Intel Corp		x																		x												
9	International Business Machines		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Intersil Corp		x																		x												
2	ITC Holding Corp		x																		x												
3	JPMorgan Chase & Co			x																	x												
4	JSC MMC Norilish Nickel	x																			x												
5	Kookmin BK KB: NYSE		x																		x												
6	Kroger Co		x																		x												
7	Laboratory Corp.		x																		x												
8	Lincare Holdings		x																		x												
9	Lufkin Inds Inc.		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	MEMC Electronics Materials		x																		x												
2	MFS Value			x										x							x												
3	Macys Inc		x																			x											
4	Markel Corp Holdings Co		x																		x												
5	McDonalds Corp		x																		x												
6	McKesson Corp		x																		x												
7	Merck & Co. Inc.		x																		x												
8	Meridian Bioscience Inc.		x																		x												
9	Metlife Inc.		x																		x												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Micros Systems Inc.		x																		x												
2	Microchip Technology Inc.		x																		x												
3	Monotype Imaging Holdings.		x																		x												
4	Monsanto Co.		x																		x												
5	Morgan Stanley		x																		x												
6	NCR Corp		x																		x												
7	National Instrument Corp		x																		x												
8	Nissan Motors LTD		x																		x												
9	Nordstrom, Inc.		x																		x												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Norsk Hydro Nohyp: Euronext		x																		x												
2	Northup Grumman Corp Holdings Co.		x																		x												
3	Ntelos Holdigns		x																		x												
4	Nuveeen Flagship Muni Bonds			x										x							x												
5	Lukoil Oil		x																		x												
6	Oracle Corporation		x																		x												
7	Orix Corp		x																		x												
8	Owens Illinois Inc. OI: NYSE		x																		x												
9	Pactiv Corp		x																		x												

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Prior Editions Cannot be Used.

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Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Page Number: 20

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Pepsico Inc		x																		x												
2	Perkinelmer Inc		x																		x												
3	Petro Canada		x																		x												
4	Pfizer Inc		x																		x												
5	Philip Morris International		x																		x												
6	Pioneer Natural Resources.		x																		x												
7	Plum Creek Timber		x																		x												
8	Procter & Gamble		x																		x												
9	Reinsurance Group American Inc		x																		x												

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Reporting Individual's Name: Scott D. O'Malia

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Roper Industries		x																		x												
2	Royal Bank of Scotland RBS: NYSE		x																		x												
3	Royal DSM RDSMY Royal DSM NV S/ ADR 78024910 Pink Sheets		x																		x												
4	Royal Dutch Shell PLC		x																		x												
5	Royce Low Price Stock			x										x								x											
6	Ruddick Corp		x																		x												
7	Sanofi-Aventis		x																		x												
8	Schlumberger LTD		x																		x												
9	Service Corp International		x																		x												

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SCHEDULE A continued

(Use only if needed)

Page Number: 22

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Sharp Corp		x																		x												
2	Silgan Holdings		x																		x												
3	Societe Generale		x																		x												
4	Sprint Nextel Corp		x																		x												
5	Statoil Hydro		x																		x												
6	Sumitomo Mitsui Financial Group SMFJY: OTC		x																		x												
7	TJX Companies		x																		x												
8	Target Corp.		x																		x												
9	Texas Industries, Inc.		x																		x												

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SCHEDULE A continued

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Page Number 23

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Time Warner Inc		x																		x												
2	US Bancorp		x																		x												
3	United Microelectronics Corp		x																		x												
4	United Technologies Corp		x																		x												
5	Vodafone Group		x																		x												
6	Washington Post Co.		x																		x												
7	Waste Connections Inc.		x																		x												
8	Wells Fargo & Co.		x																		x												
9	Wiley John & Sons Inc.		x																		x												

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SCHEDULE A continued

(Use only if needed)

Page Number: 24

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Zenith National		x																		x												
2	CRM Mid Cap Value			x										x								x											
3	U.S. Treasuries - Variety 6 Month - 30 yrs				x														x				x										
4	Columbia Cash Reserves Money Market Account Spouse		x											x					x			x											
5	William Blair International Mutual Fund Spouse		x											x								x											
6	Brandywine Blue Mutual Fund Spouse		x											x							x												
7	Forward Small Cap Equity Mutual Fund Spouse	x												x							x												
8	Janus Mid Cap Value Institutional Mutual Fund Spouse		x											x							x												
9	RS Global Natural Resources Class A Mutual Fund Spouse		x											x							x												

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SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Dodge and Cox International Mutual Fund Spouse		x											x							x												
2	Satuit Capital Micro Cap Mutual Fund Spouse	x												x							x												
3	TCW Diversifield Value Mutual Fund Spouse		x											x							x												
4	Alliance Berstein Intl Value Advisor Mutual Fund Spouse	x												x							x												
5	Calamos Growth Class A Mutual Fund Spouse		x											x							x												
6	Calvert Income Fund Class I Mutual Fund Spouse		x											x							x												
7	First American Small Cap Growth Mutual Fund Spouse	x												x							x												
8	Hotchkis and Wiley Core Value Mutual Fund Spouse		x											x							x												
9	Keeley Small Cap Value Class A Mutual Fund Spouse		x											x							x												

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name: Scott D. O'Malia

SCHEDULE B

Page Number: 26

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
Example:	Central Airlines Common	x			2/1/99			x									
1																	
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1			
2			
3			
4			
5			

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Do not Complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name: Scott O'Malia

SCHEDULE B continued
(Use only if needed)

Page Number: 27

Part I: Transactions

	Identification of Assets	Transaction Type (x)			Date (Mo., Day, Yr.)	Amount of Transaction (x)											
		Purchase	Sale	Exchange		$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
	Example: Central Airlines Common	x			2/1/99			x									
1	N/A																
2																	
3																	
4																	
5																	
6																	
7																	
8																	
9																	
10																	
11																	
12																	
13																	
14																	
15																	
16																	

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SCHEDULE C

Page Number 28

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None [X]

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	$10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x								
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand					x						
1																
2																
3																
4																
5																

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None [ ]

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1	Mirant Warrants (119 units) will be divested	Mirant	1/06
2			
3			
4			
5			
6			

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Reporting Individual's Name		Page Number
Scott D. O'Malia	**SCHEDULE D**	29

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None [X]

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1					
2					
3					
4					
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None [X]

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

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BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used):

Harris Daniel Sherman

2. Date and place of birth:

November 19, 1942. Denver, Colorado

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name, and business address(es).

Divorced.

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Colorado College, 1960-1964, B.A. (History), 1964.

Columbia University Law School, 1964-1967, LL.B, 1967

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college. Please include a title and brief job description for each.

VISTA, Attorney (working with community organizations in Chicago)—1967-1968.

Chicago Public Schools, Teacher (5th Grade)—1968-1969.

Sherman, Sherman, & Morgan, Attorney (general law practice in Denver, Co.)—1969-1974.

Environmental Defense Fund, Attorney (environmental law practice in Denver, Co.)—1973-1975.

Colorado Department of Natural Resources, Executive Director (appointed by Governor Richard Lamm to oversee Colorado's energy, wildlife, water, parks, and state land programs)—1975-1980.

Arnold & Porter, Partner (specializing in natural resources, environmental, public lands, water, and American Indian law in Denver, Co.)—1980-2007.

Colorado Department of Natural Resources, Executive Director (appointed by Governor Bill Ritter to oversee Colorado's energy, wildlife, water, parks, forestry, and state lands programs)—2007-Present.

6. Military Service: Have you served in the military? If so, please give particulars, including the dates, branch of service, rank or rate, and type of discharge received.

   No.

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service, grade levels, and whether such positions were elected or appointed.

   VISTA Attorney—1967-1968.

   Colorado Department of Natural Resources, Executive Director, 1975-1980 (Appointed).

   Colorado Department of Natural Resources, Executive Director, 2007-Present (Appointed).

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

   Phi Beta Kappa

   Pi Gamma Mu

   Woodrow Wilson Fellowship (Honorable Mention).

   Honorary Doctorate of Laws, Colorado College

   Thorne Ecological Institute, Environmental Award

   American Bar Association, Fellow

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

The Boettcher Foundation, Trustee, 2004- Present

Colorado College, Trustee, 1998-2005

Denver Water Board, Commissioner, 2005-2007

Colorado Forum, Member, 1986 - 2007

Trust For Public Land (National Advisory Council), 1990-2007

Trust For Public Land (Chair, Colorado Advisory Council), 1996-2007

Denver Regional Air Quality Council, Chair

Wirth Chair, University of Colorado, Trustee, 2004-2007

A & P Realty Associates, General Partnership, 1982-Present

10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include in this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you would provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry, or any other matters within the jurisdiction of this Committee or the Department of Agriculture.

    See Attachment A

    I do not use prepared text for my speeches, but I have included a list of my public speaking events.

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, partnerships, associations, or other organizations? (If no, provide full details.)

   Yes. Please note that while I have severed all ties with my previous law firm, Arnold & Porter, I receive monthly payments from Arnold & Porter under its retirement plan. This is described in greater detail in response to Question #2

below.

2. List sources, amounts and dates of all expected receipts from deferred income arrangements, stock options, uncompleted contracts, and other future benefits that you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

   Arnold & Porter Retirement Plan (unfunded retirement benefits arising from the Firm's Partnership Agreement). 2009 annual anticipated receipts will be approximately $194,000.

   State of Colorado PERA (upon leaving State employment, I will receive $350 a month).

3. Do you, or any partnership or closely held corporation or other entity in which you have an interest, own or operate a farm or ranch? (If yes, provide a brief description including location, size, and type of operation.)

   Since 1981, I have owned a one-third interest in a 450 acre ranch in Summit County, Colorado. Two other families own the remaining two-thirds interest. The entire ranch is subject to a conservation easement held by the American Farmland Trust. Under the terms of the conservation easement, the property cannot be developed beyond the existing home sites. Limited grazing of horses and cattle occur through a lease with the adjacent rancher. We receive no income under the lease although we have a reciprocal arrangement whereby we can recreate on the adjacent ranchers property and he agrees to maintain our ditches and headgates. The property is not held for investment purposes.

4. Have you, or any partnership or closely held corporation or other entity in which you have an interest, ever participated in federal commodity income and price support, disaster, conservation, or related programs? (If yes, provide full details, including descriptions and amounts of payments and loans received or forfeited relating to each commodity, crop, farm, and ranch involved during the past five years.)

   No.

5. Have you, or any partnership or closely held corporation or other entity in which you have an interest, received payments for crop or livestock losses from the federal crop insurance program in the past five years? (If yes, provide full details and amounts.)

   No.

6. Have you ever received a student loan or loans? If so, has all indebtedness been

fully repaid? (If no, provide full details.)

No.

7. Have you, or any partnership or closely held corporation or other entity in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any department or agency of the federal government (other than a student loan), including, for example, through the farm or rural development lending programs of the Department of Agriculture or through the Small Business Administration? (If yes, provide the current status and details of such loan or loans, whether the indebtedness has been fully repaid, and all details of any such loan activity.)

   No.

8. If confirmed, do you have any plans, commitments, or agreements to pursue or continue outside employment or engage in or continue any business or vocation, with or without compensation, during your service with the government? (If so, explain fully.)

   No.

9. Do you have any plans to resume employment, affiliation, or practice with any of your previous employers, business firms, partnerships, associations, or other organizations after completing government service? (If yes, provide full details.)

   No.

10. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, provide full details.)

    No.

11. Describe fully all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture.

    See Attachment B.

12. Explain in detail how you will resolve and avoid any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above questions. In particular, identify all investments, obligations, liabilities, or other relationships that involve actual or potential conflicts of interest relating to the position for which you have been nominated and what actions you will take to resolve and avoid these actual or potential conflicts of interest.

Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department of Agriculture's designated agency ethics official and that has been provided to this Committee.

13. Fully describe and explain all divestitures or arrangements of any nature with respect to any type of interest that you have made or will make to resolve and avoid actual or potential conflicts of interest relating to the position for which you have been nominated.

Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department of Agriculture's designated agency ethics official and that has been provided to this Committee.

Attachment A
Speaking Engagements 2007-2009

Date	***Org***	***Location***	***Details***
June 27 07	Elk head Reservoir Dedication	Elk head Reservoir	Keynote Speaker
July 18 07	Greenway Foundation	Confluence Park	Dedication
Aug.15 07	COGA speech	Convention Center	Keynote Speech
Aug.17 07	Grouse Talk	719	Endangered Species speech
Sept 25 07	Douglas County Water Summit	Wildlife Experience	Keynote Lunch Address
Sept. 9 07	Colo Ground Water Conference	Colorado Springs	Keynote Address
Nov. 9 07	Denver Water Authority	Renaissance Denver Hotel	Keynote Speech--Future Water Supply Sources
May 17 08	Colorado Cooperation	Devils Thumb, Tabernash	Colorado' s Water Future
June 18 08	Denver Chamber	1445 Market Street	Water for Colorado's cities and agriculture communities.
Oct 23rd	South Platte Forum	Radisson Longmont	Keynote Luncheon Speaker –Imagining Colorado's Water Future
Jan 8th '09	Action 22	Pueblo Marriott	Keynote luncheon Speaker- The Future of Colorado's Water
Jan. 29 '09	CWC	Hyatt Regency Tech Center	The Water Buffalo Stampede speech

Attachment B

Describe fully all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture.

From September, 2004 until February, 2007 while practicing law at Arnold & Porter, I represented the following entities before the Forest Service and USDA.

1. On behalf of Vail Resorts Management
    a. Review of the Breckenridge Ski Area Peak 8 lift expansion
    b. On behalf of Vail Resorts, appeal of the White River Forest Plan
    c. Submission of comments concerning certain White River Forest Plan revisions.

2. On behalf of CNL Real Estate Investment Trust
    a. Negotiation with the Forest Service, Booth Creek, and CNL regarding Forest Service reissuance of ski resort permits for resulting from sale of resorts.

3. On behalf of Copper Mountain Ski Resort
    a. Resolution of third party timber patent claims within the Copper Mountain Ski Area boundaries.
    b. Resolution of snowmaking proposals accompanying a Copper Mountain master development plan.

From February, 2007 until the present, while serving as Director of the Colorado Department of Natural Resources, I have periodically met with representatives of the Forest Service and USDA on a wide variety of federal/state policy and programmatic issues within the existing jurisdiction of the State and/or the Forest Service. These issues have included:

1. Coordination with the Forest Service on a wide variety of fuel reduction, forest restoration projects, and fire fighting plans and strategies.
2. Coordination on wide-array of Colorado's forest and natural resources issues including work on threatened and endangered species issues within a number of Colorado's national forests.

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

September 18, 2009

The Honorable Blanche L. Lincoln
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Harris Sherman, who has been nominated by President Obama for the position of Under Secretary for Natural Resources and Environment, Department of Agriculture. Mr. Sherman also has been nominated for the position of Member of the Board of Directors, Commodity Credit Corporation.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

September 16, 2009

Mr. Raymond J. Sheehan
Designated Agency Ethics Official
U.S. Department of Agriculture
Washington, DC 20250-0122

Dear Mr. Sheehan:

The purpose of this letter is to explain the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary for Natural Resources and Environment, U.S. Department of Agriculture (USDA). Holding the position of the Under Secretary for Natural Resources and Environment also entails a membership on the Board of Directors of the Commodity Credit Corporation (CCC). The steps detailed below also take into account any potential conflicts or appearances thereof associated with that CCC position.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I further understand that the interests of the following persons are imputed to me: any spouse or minor child of mine, any general partner of a partnership in which I am a limited or general partner; any entity in which I serve as officer, director, trustee, general partner, or employee; and any person or entity with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position as Executive Director, Colorado Department of Natural Resources. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which the Colorado Department of Natural Resources, is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). I will continue to participate in the Colorado Public Employees Retirement Association, a defined benefit plan. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of the State of Colorado to provide this contractual benefit to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208 (b)(2), such as 5 C.F.R. § 2640.201(c)(2).

Upon confirmation, I will resign my position as Trustee of the Boettcher Foundation. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which the Boettcher Foundation, is a party or represents a party unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will remain a non-managing partner in the A&P Realty Associates General Partnership ("A & P"). The partnership is invested in one holding, Plaza on Harvest Hill, LP, a multi-unit apartment building in Dallas, Texas. During my appointment to the position of Under Secretary, I will not provide any services to A&P. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of A&P or Plaza on Harvest Hill, LP, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that, pursuant to 18 U.S.C. § 208(a), the financial interests of each general partner in A&P will be imputed to me during my government service. For the duration of my appointment, I will not participate personally and substantially in any particular matter in which I know that any of these partners has a financial interest, if the particular matter has a direct and predictable effect on that interest, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

As a result of my retirement from Arnold and Porter LLP, I receive monthly retirement income from an unfunded retirement account. My monthly retirement income is based upon the number of years of service with Arnold and Porter LLP. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of Arnold and Porter, LLP, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

I will divest all of my interests in the following Morgan Stanley Managed Accounts within 90 days of confirmation: Northern Trust Value Investors; Davis Advisors; Tradewinds Global; and Madison Large Cap Growth. Within each of these accounts are specific assets directly involved with oil and gas exploration, mining and forest management. Specifically, Deere Company; Waste Management, Inc.; BP; Chevron; ConocoPhillips; Devon Gas Services; Exxon Mobil; Occidental Petroleum; Barrick Gold; Baker Hughes and Newmont Mining pose a conflict of interest. Due to the structure of each managed account it is not feasible for me to divest of the specific holdings that pose a conflict of interest and therefore liquidating each managed account is necessary. With regard to each of the specific assets identified above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Finally I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to commitments I have made in this and any other ethics agreement.

Sincerely,

Harris Sherman

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U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

Date of Appointment, Candidacy, Election or Nomination (*Month, Day, Year*)	Reporting Status (*Check appropriate boxes*)	[ ] Incumbent	Calendar Year Covered by Report	[X] New Entrant, Nominee, or Candidate	[ ] Termination Filer / Termination Date (*If Applicable*) (*Month, Day, Year*)
Reporting Individual's Name	Last Name: SHERMAN			First Name and Middle Initial: HARRIS	
Position for Which Filing	Title of Position: Under Secretary for Natural Resources & Environment			Department or Agency (*If Applicable*): U.S. Department of Agriculture	
Location of Present Office (or forwarding address)	Address (*Number, Street, City, State, and ZIP Code*): CO Dept. of Ntrl. Resources, 1313 Sherman St., Denver, CO 80203			Telephone No. (*Include Area Code*): 303-866-3111 Ext. 8670	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Committee on Agriculture, Nutrition and Forestry			Do You Intend to Create a Qualified Diversified Trust? [ ] Yes [X] No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: Harris D. Sherman			Date (*Month, Day, Year*): 7/31/09	
Other Review (If desired by agency)	Signature of Other Reviewer			Date (*Month, Day, Year*)	
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: [illegible]			Date (*Month, Day, Year*): 8/27/09	
Office of Government Ethics Use Only	Signature: [illegible]			Date (*Month, Day, Year*): 9/18/09	

Comments of Reviewing Officials (*If additional space is required, use the reverse side of this sheet*)

(*Check box if filing extension granted & indicate number of days* _____ [ ])

(*Check box if comments are continued on the reverse side* [ ])

Fee for Late Filing
Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods
Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:
Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.
Schedule B--Not applicable.
Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.
Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

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U.S. Office of Government Ethics

Reporting Individual's Name: Sherman, Harris

SCHEDULE A

Page Number: 2

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual acount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only If Honoraria
Examples	Central Airlines Common				X											X						X										
	Doe Jones & Smith, Hometown, State																														Law Partnership Income $130,000	
	Kempstone Equity Fund																															
	IRA: Heartland 500 Index Fund																							X								
1	MORGAN STANLEY ACTIVE ASSETS TAX FREE TRUST (money market fnd)				X																											
2	DISCOVER FINANCIAL SERVICES COMMON		X													X				X												
3	MORGAN STANLEY COMMON																			X												
4	PIMCO COMM REAL RETURN				X																											
5	AMERICAN FUNDS FUNDAMENTAL INVESTORS A																					X										
6	UNIT IMIT MUNI INSD CO 63SPS (municipal bond)																	X				X										

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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5 C.F.R Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 3

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	Amount: $201 - $1000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	FRANKLIN PORTFOLIO ADVISORS MUNICIPAL MANAGED ACCT. MORGAN STANLEY MM ACCT.				X														X														
2	DENVER, CO CITY & CNTY BRD WRT COMMRS WTR BOND DUE 12/1/13																		X						X								
3	CMC ACADEMIC FACS LEASING TR CO CTFS PARTN. BOND DUE 8/1/15																		X						X								
4	BOULDER CNTY CO DEV REV UNIV CORP FOR ATMOSPHERIC RESEARCH BOND DUE 9/1/15																		X						X								
5	COLORADO SRINGS, CO UTILS REV B BOND DUE 11/15/16																		X						X								
6	DENVER CO CITY AND CNTY GENL OBLIG DUE 8/1/17																		X						X								
7	ADAMS 12 FIVE STAR SCHOOLS CO CTFS PARTN BOND DUE 12/1/17																		X						X								
8	CO. WTR RES PWR DEV AUTH BOND DUE 9/1/18																		X						X								
9	CASTLE ROCK, CO WTR & SWR ENTERPRISE REVBOND DUE 12/1/19				X														X						X								

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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5 C.F.R Part 2634
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Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 4

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	None (or less than $201)	Dividends	Rent and Royalties	Interest	Capital Gain	None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	EL PASO & ELBERT CNTYS CO JT DIST 23-J PEYTONBOND DUE 12/15/17				X														X						X								
2	W. METRO FIRE PROTN DIST CO BOND DUE 12/15/17																		X						X								
3	FOOTHILLS PK & REC DIST AUTH CO SCHOOL DIST CTFS BOND DUE 12/1/20																		X						X								
4	DENVER CO CTY & CNTY SCHOOL DISTRICT NO. 1 BOND DUE 12/1/22																		X						X								
5	ADAMS BROOMFIELD AND WELD CNTYS CO. LO SCHOOL DIST 27-J BOND DUE 12/15/21																		X						X								
6	EAGLE, GARFIELD & ROUTT CNTYS CO SL SCHOOL DIST NO RE-50J BOND DUE 12/1/24																		X						X								
7	MORGAN STANLEY/NORTHERN TRUST MANAGED ACCOUNTS																																
8	MORGAN STANLEY MONEY MARKET ACCT																		X														
9	3M ALCOA, INC		X														X X								X								

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 5

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
	None ☐																																
1	ALLSTATE CORP																				X												
2	AMERICAN EXPRESS CO.		X													X	X				X												
	ANHEUSER BUSCH CO INC																																
3	ANALOG DEVICES		X																		X												
4	AT&T INC		X														X								X								
5	BAKER HUGHES		X																		X												
6	BANK OF NEW YORK MELLON CORP		X																		X												
7	BLACK AND DECKER CORP		X																		X												
8	BLACKROCK INC		X																				X										
9	BOEING CO		X														X																

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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U.S. Office of Government Ethics

Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 6

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent/Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	BRISTOL MYERS SQUIBB CO		X																	X												
2	CHEVRON		X																	X												
3	CHUBB CLEAR CHANNEL COMM		X													X				X		X										
4	COCA COLA CO		X																	X												
5	DEERE & CO DEUTSCHE TELEKO AG I ORD		X													X				X		X										
6	DOW CHEMICAL CO		X													X																
7	ENCANA CORP		X																	X												
8	ERICSSON LM TEL ADR CL B		X																	X												
9	EXXON MOBIL CORP		X																	X												

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Prior Editions Cannot be Used.

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SCHEDULE A continued

(Use only if needed)

Page Number: 7

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Gains	Amount: None (or less than $201)	Amount: $201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	GAP INC		X																		X												
2	GENERAL ELECTRIC CO																X																
3	GOLDMAN SACHS GRP INC H&R BLOCK																X X						X										
4	HARTFORD FIN SERS GRP INC HERSHEY		X														X				X												
5	HOME DEPOT INC		X														X																
6	HUDSON CITY BANCORP INC		X																		X												
7	INTEL CORP																X																
8	INTERNATIONAL BUSINESS MACHINES INC		X														X																
9	JOHNSON & JOHNSON		X														X						X										

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Page Number: 8

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	KRAFT FOODS INC CL A		X																		X												
2	LOCKHEED MARTIN CORP		X																		X												
3	MCGRAW HILL COS INC		X																		X												
4	MEDTRONIC METLIFE		X X																		X X												
5	MICROSOFT CORP																				X												
6	NEW YORK COMMUNITY BANCORP NTT DOCOMO INC SP ADR		X														X X						X X										
7	OMNICOM GROUP PENNY JC		X																		X X												
8	PEPSICO		X																		X												
9	PFIZER INC		X																		X												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	Amount: $201 - $1,000	Amount: $1,001 - $2,500	Amount: $2,501 - $5,000	Amount: $5,001 - $15,000	Amount: $15,001 - $50,000	Amount: $50,001 - $100,000	Amount: $100,001 - $1,000,000	Amount: Over $1,000,000*	Amount: $5,000,001 - $25,000,000	Amount: Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	PHILIP MORRIS INTL INC		X														X																
2	PROCTER AND GAMBLE		X																		X												
3	SANFOI AVENTIS ADS		X														X					X											
4	SCHLUMBERGER LTD		X																		X												
5	SUNOCO INC UNITED PARCEL SERVICE		X														X				X												
6	VERIZON COMMUNICATIONS		X														X						X										
7	WALMART STORES INC																						X										
8	WELLS FARGO & CO		X														X																
9	WYETH																X				X												

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SCHEDULE A continued

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Page Number: 10

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	MORGAN STANLEY/DAVIS ADVISORS MANAGED ACCT.																																
2	MORGAN STANLEY MONEY MARKET ACCT.																	X					X										
3	AGILENT TECHNOLOGIES ALTRIA GROUP INC AMERICAN EXPRESS		X														X X				X												
4	AMERIPRISE FINANCIAL INC AON CORP		X														X				X												
5	BANK OF NEW YORK MELLON		X																		X												
6	BECTON DICKSON & CO		X																		X												
7	BED, BATH AND BEYOND		X																		X												
8	BERKSHIRE HATHAWAY B																						X										
9	CANADIAN NATURAL RESOURCES LTD		X																		X												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted investment fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
	None ☐																																
1	CARDINAL HEALTHCARE INC		X														X																
2	CISCO SYS INC		X																		X												
3	COMCAST CORP CL A		X																		X												
4	CONOCOPHILLIPS COSTCO WHOLESALE CORP COVIDEN LTD																X X X																
5	CVS WHOLESALE CORP																				X												
6	DEVON ENERGY CORP																				X												
7	DIAGEO PLC SPON ADR		X														X																
8	DUN & BRADSTREET CP		X																		X												
9	EOG RESOURCES INC																X							X									

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rents and Royalties	Type: Interest	Type: Capital Gain	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	EXPRESS SCRIPTS INC		X																		X												
2	GOOGLE INC		X																		X												
3	GRUPO TELEVISA SA GLOBAL DEP		X														X																
4	H&R BLOCK		X																		X												
5	HARLEY DAVIDSON INC		X																		X												
6	HEWLETT PACKARD		X																		X												
7	IRON MOUNTAIN INC		X																		X												
8	JOHNSON & JOHNSON		X																		X												
9	JP MORGAN CHASE AND CO COMMON		X																		X												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gain	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	LOEWS CORP		X														X			X			X										
2	MERCK & CO		X																		X												
3	MICROSOFT		X																		X												
4	MOODYS CORP		X														X																
5	NEWS CORP LTD CL A		X																		X												
6	OCCIDENTAL PETROLEUM CORP																X																
7	PFIZER INC		X																		X												
8	PHILIP MORRIS INTL INC		X														X																
9	PROCTOR AND GAMBLE		X																		X												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	PROGRESSIVE CORP OHIO		X																	X												
2	SCHERING PLOUGH CORP		X																	X												
3	SEALED AIR CP		X																	X												
4	TEXAS INSTUMENTS		X																	X												
5	TRANSATLANTIC HOLDINGS INC		X																	X												
6	TRANSOCEAN LTD		X																	X												
7	TYCO INTERNATIONAL LTD		X													X						X										
8	UNITED HEALTH GROUP INC		X																	X												
9	VULCAN MATERIALS CO WALMART STORES		X													X				X		X										

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (None ☐)	None (or less than $1001)	$1001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	WELLS FARGO & CO																X																
2	MORGAN STANLEY/TRADEWINDS GLOBAL MANAGED ACCT MORGAN STANLEY MM ACCT																		X				X										
3	AEGON NV ADR		X														X			X													
4	ALCATEL-LUCENT ADR		X																		X												
5	ALUMINA LTD		X														X			X			X										
6	ANGLOGOLD ASHANTI LIMITED ASTRAZENCA																X				X												
7	BARRICK GOLD CORP																X			X					X								
8	BP PLC ADS																X			X													
9	CAMECO CORP		X																	X	X												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gain	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CENTRAIS ELEC BRAS SP ADR CM		X														X																
	CHUNGHWA TEL CO ADR																X								X								
	CLP HOLDINGS LTD ADR																X						X										
2	CURRENCY SHARES EURO TR		X																		X												
3	CURRENCY SHARES JAPANESE YEN																																
4	DAI NIPPPN PRGT LTD JAPAN																				X												
5	DAIWA HOUSE IND LTD ADR		X																		X												
	ELECTROBRAS																																
	ENI SPA AMER DEP REC																X																
6	FUJIFILM HLDGS CORP ADR																				X												
7	GOLD FIELDS LTD SP ADR		X																		X												
8	HACHIJUNI BANK LTD ADR		X																		X												
9	IMPALA PLATINUM HLDGS LTD		X														X								X								

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gain	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	IVANHOE MINES LTD		X																		X												
2	KAO CORP SPONS ADR KINROSS GOLD ADR KIRIN BREWERY ADR		X														X				X												
3	KOREA ELECTRIC POWER CORP		X																		X												
4	KT CORP SPON ADR		X																		X												
5	LIHIR GOLD LTD ADR LONMIN PLC ADR																								X								
6	MAGNA INTL A COM		X																		X												
7	MITSUI SUMITOMO UNSPON ADR NEC ELECTRONICS ADR		X																		X			X									
8	NEWCREST MINING LTD		X																		X												
9	NEWMONT MINING CORP		X														X																

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Prior Editions Cannot be Used.

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Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 18

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalty	Type: Interest	Type: Gain	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	NEXEN INC		X													X																	
2	NIPPON TELEGRAPH & TELEPONE															X																	
3	NOKIA CP ADR		X													X																	
4	NOVARTIS AG ADR															X																	
5	PANASONIC CORP SPON ADR		X																	X													
6	ROHM CO LTD UNSPONS ADR		X																														
7	ROYAL DUTCH SHELL PLC															X																	
8	SANOFI AVENTIS ADR																			X													
9	SEGA SAMMY HLDGS SPONS ADR		X																	X													

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SCHEDULE A continued

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Page Number: 19

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	SEKISUI HOUSE LTD ADR		X																	X												
2	SEVEN & I HOLDINGS CL LTD ADR																			X												
3	SHISEIDO LTD SON ADR		X																	X												
4	SIEMENS AKTIENGES ELLSHAFT		X														X															
5	SK TELECOM CO LTD																X															
6	SOCIETE GENERALE SP ADR STATOILHYDRO ADR		X																			X										
7	STORA ENSO SP ADR SER		X																	X												
8	SUMITOMO TR&BK CO		X																	X												
9	SUNCOR ENERGY INC		X														X					X										

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SCHEDULE A continued
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Page Number: 20

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	SWISSCOM AG ADR			X													X			X			X										
2	TDK CP ADR			X																	X												
3	TECHNIP-COFLEXIP		X																	X		X											
4	TELECOM ITALIA SPA NEW SHGS SHARES			X													X						X										
5	TOMKINS PLC ADS		X																		X												
6	TOPPAN PRTG LTD ADR TOTAL FINA ELF SA	X	X																	X	X		X										
7	UBS AG		X																		X												
8	UNITED UTILITIES GROUP UPM KYMMENE CORP ADR	X	X														X			X X			X X										
9	VODAFONE GP PLC ADS			X													X					X											

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Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE A continued

(Use only if needed)

Page Number: 21

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (Block A)	None (or Less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$10,001 - $25,000	$25,001 - $50,000	$50,001 - $25,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $50,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	WACOAL CP ADR		X														X																
2	WOLTERS KLUWER NV SPON ADR		X																		X												
3	MORGAN STANLEY/MADISON LARGE CAP GROWTH MANAGED ACCT.																																
4	MORGAN STANLEY MONEY MARKET ACCT 3M CO																		X		X		X										
5	ABB LTD		X																		X												
6	AFLAC INCORPORATED																X																
7	APACHE CORP		X																		X												
8	BAXTER INTL INC																				X												
9	BERKSHIRE HATHAWAY B																				X												

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent/Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CHECK POINT SOFTWARE TECH			X																		X												
2	CISCO SYS INC																																	
3	COCA COLA CO			X														X						X										
4	COMCAST CORP CL A			X																														
5	COSTCO WHOLESALE CORP			X																		X												
6	COVANCE INC																																	
7	DENTSPLY INTERNATIONAL			X																		X												
8	DEVON ENERGY CORP			X																		X												
9	DIAGEO SPON ADR DONALDSON CO. INC																	X						X										

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SCHEDULE A continued

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	EMC XORP EXPEDITORS INTL	X		X																X	X			X									
2	FRANKLIN RESOURCES INC		X																		X												
3	GOOGLE INC			X																X			X										
4	HEWLETT PACKARD			X																	X												
5	JACOBS ENGINEERING GROUP INC		X																		X												
6	JOHNSON & JOHNSON LINEAR TECH CORP	X		X													X			X X			X	X									
7	MARKEL CORP MCDONALDS	X	X																	X	X				X								
8	MEDTRONIC		X																		X												
9	MICROSOFT CORP			X																	X												

None ☐

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SCHEDULE A continued

(Use only if needed)

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,000)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	NOVARTIS AG ADR PEPSICO PHARMACUTICAL PROD ADR			X												X				X												
2	QUEST DIAGNOSTICS INC		X													X																
3	SCHLUMBERGER LTD		X																	X												
4	STAPLES INC		X																	X												
5	STATE STREET CORP SYNOVUS FINANCIAL		X																	X												
6	TARGET CORP		X																	X												
7	WALGREEN CO		X																	X												
8	WALT DISNEY CO																			X												
9	WASTE MANAGEMENT INC																			X												

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	Over $25,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	WELLS FARGO & CO YAHOO INC																			X													
2	ZIMMER HLDGS INC																																
3	MORGAN STANLEY IRA HOLDINGS MORGAN STANLEY MONEY MARKET ACCT																	X						X									
4	AMERICAN FUND, FUNDAMENTAL INVESTOR FUND																					X											
5	AMERICAN FUND, GROWTH FUND OF AMERICA																			X													
6	AMERICAN FUND WASHINGTON MUTUAL FUND																					X											
7	FNR 2003-77 DA (Fannie Mae)																X					X											
8	BLACKROCK INFLATION PROT BOND C																			X													
9	PIMCO COMM REAL RET STRAT C																									X							

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Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,000)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent/Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	VAN KAMPEN SENIOR INCOME TR																																
2	WELLS FARGO CHECKING AND SAVINGS ACCTS																		X				X										
3	A&P REALTY ASSOC GP invested in PLAZA ON HARVEST HILL LLP, DALLAS, TEXAS (apt. complex)		X														X						X										
4	ARNOLD AND PORTER RETIREMENT PLAN (UNFUNDED PLAN) VALUE NOT READILY ASCERTAINABLE																															INCOME 08/$186,564 09/$113,272	
5	ASPEN MEADOWS CONDO, ASPEN COLORADO																								X								
6	CO PUBLIC EMPLOYEES RETIRMENT SYSTEM DEFINED BENEFIT PLAN VALUE NOT READILY ASCERTAINABLE																															$350.00 PER MONTH UPON RETIREMENT	
7	STATE OF COLORADO																															SALARY 08/143,016 09/$85,190	
8																																	
9																																	

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name: SHERMAN, HARRIS

SCHEDULE B

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
	Example: Central Airlines Common	x			2/1/99			x									
1																	
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $114 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
	Examples: Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$300
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$100
1			
2			
3			
4			
5			

Prior Editions Cannot Be Used.

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SCHEDULE C

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None [X]

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	$10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.											
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand			x		x						
1																
2																
3																
4																
5																

Category of Amount or Value (x)

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None [ ]

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1	WILL RECEIVE $350.00 IN MONTHLY PENSION BENEFITS UPON RETIREMENT FROM STATE OF COLORADO	COLORADO PUBLIC EMPLOYEES RETIREMENT ASSN.	01/07
2	PARTNERS RETIRMENT PLAN BASED UPON NUMBER OF YEARS OF SERVICE. PLAN IS UNFUNDED.	ARNOLD AND PORTER LLP	05/08
3			
4			
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Reporting Individual's Name		Page Number
SHERMAN, HARRIS	**SCHEDULE D**	29

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☐

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1	ARNOLD AND PORTER LLP	LAW FIRM	PARTNER	05/80	01/07
2	STATE OF COLORADO, DEPT. OF NATURAL RESOURCES	STATE AGENCY	EXECUTIVE DIRECTOR	02/07	PRESENT
3	BOETTCHER FOUNDATION	NON-PROFIT COMMUNITY FOUNDATION	TRUSTEE	04/02	PRESENT
4	A&P REALTY ASSOCIATES GENERAL PARTNERSHIP	GENERAL PARTNERSHIP	NON-MANAGING GENERAL PARTNER	1982	PRESENT
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None ☐

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1	STATE OF COLORADO	EXECUTIVE DIRECTOR, DEPARTMENT OF NATURAL RESOURCES
2		
3		
4		
5		
6		

Prior Editions Cannot Be Used.

BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).

Jill Elaine (Maycumber-maiden) Sommers

2. Date and place of birth.

November 17, 1968 Fort Scott, Kansas

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).

Married to Michael J. Sommers – Policy Director for Republican Leader John Boehner, US Capitol

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

University of Oregon 1987-1988
University of Kansas 1988-1991
Bachelor of Arts Degree awarded December of 2005
(Course work completed in 1991)

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

Office of Senator Robert J. Dole (R-KS)
Intern - January 1991-May 1991 - Washington DC
Receptionist – May 1991-August 1992 - Washington DC
Regional Representative – August 1992-November 1994
Pittsburg, Kansas/Topeka, Kansas
Represented the Senator at various functions and assisted constituents with various requests and issues regarding the federal government.
Assistant to the Administrative Assistant - Washington DC
November 1994-August 1995
Assisted the AA in managing a staff of 25 legislative assistants and correspondents

Clark & Muldoon, P.C. - August 1995-February 1998
Legislative Assistant
Assisted two attorneys with agricultural related client business as well as general office management.

Taggart & Associates - March 1998–August 1998
Senior Associate
Principal contact for clients with legislative concerns on issues such as agriculture, health care, and telecommunications

Chicago Mercantile Exchange
Manager, Legislative and Regulatory Affairs – August 1998-January 2001
Associate Director, Government Affairs – January 2001-March 2004
Primarily responsible for monitoring regulatory matters pending before the federal government. Accompanied Members of Congress, Administration officials and congressional staff to Chicago as part of the CME educational visitation program.

International Swaps and Derivatives Association
August 2005 – August 2006
Policy Director and Head of US Government Affairs
Principal contact in Washington DC for ISDA member firms on a variety of over-the-counter derivatives issues.

Commodity Futures Trading Commission
August 2007-Present
Commissioner

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, and type of discharge received.

None

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service, grade levels, and whether such positions were elected or appointed.

Office of Senator Robert J. Dole 1991-1995
CFTC – appointed 2007-present

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

None

8. Political Affiliation: The statute creating the Commodity Futures Trading Commission requires that no more than three members be from the same political party. List your current political party registration or affiliation.

Republican

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

Kansas Society of Washington DC - Treasurer
University of Kansas Alumni Association – Washington DC contact

10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

The following speeches can be found on the CFTC website:

September 2, 2009

Statement of Commissioner Jill Sommers, Joint Meetings on Harmonization of Regulation

July 29, 2009

Statement by Commissioner Jill Sommers, Commodity Futures Trading Commission

July 28, 2009

Statement by Commissioner Jill Sommers, Commodity Futures Trading Commission

June 9, 2009

Speech by Commissioner Jill E. Sommers, The U.S. Regulatory Landscape: The View from Washington, FIA/FOA International Derivatives Expo, London

September 19, 2008

Remarks by Commissioner Jill E. Sommers, "Integrity of the Futures Markets and the Role of Transparency", Asia Derivatives Conference, Tokyo, Japan

July 29, 2008

Opening Statement Commissioner Jill Sommers Before CFTC Agricultural Advisory Committee, Commodity Futures Trading Commission Headquarters

July 15, 2008

Statement Commissioner Jill Sommers Regarding Global Markets Advisory Committee, Commodity Futures Trading Commission Headquarters

June 10, 2008

Remarks of Commissioner Jill Sommers Before the Energy Markets Advisory Committee, Commodity Futures Trading Commission Headquarters

April 22, 2008

Statement of Commissioner Jill Sommers, Agricultural Markets Roundtable, Commodity Futures Trading Commission Headquarters

March 11, 2008

Statement of Commissioner Jill Sommers Regarding the CFTC-SEC Memorandum of Understanding, U.S. Securities and Exchange Commission Headquarters

November 13, 2007

Remarks by Commissioner Jill Sommers Before the Futures Industry Association Law and Compliance Division and the New York City Bar Association, Futures Industry Association Law and Compliance Division and the New York City Bar Association

October 16, 2007

Speech by Commissioner Jill Sommers before the Futures Industry Association, Law and Compliance Luncheon, Futures Industry Association, Law and Compliance Luncheon

September 18, 2007

Remarks by Commissioner Jill Sommers on Hearing to Examine Trading on Regulated Exchanges and Exempt Commercial Markets, Commodity Futures Trading Commission Headquarters

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?

   Yes

2. List sources, amounts and dates of all expected receipts from deferred income arrangements, stock options, uncompleted contracts, and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

   None

3. Have you ever received a government guaranteed student loan? If so, has it been repaid?

   Yes – all loans have been repaid in full

4. If confirmed, do you have any plans, commitments, or agreements to pursue or continue outside employment or engage in or continue any business or vocation, with or without compensation, during your service with the government? (If so, explain.)

   No

5. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)

   No

6. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)

   No

7. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Commodity Futures Trading Commission, or before Congress involving matters within the jurisdiction of this Committee or the Commodity Futures Trading Commission.

   1998-2004 The Chicago Mercantile Exchange – futures regulation, CEA Reauthorization

2005-2006 International Swaps and Derivatives Association – OTC derivatives issues, OTC energy swaps. CEA Reauthorization.

8. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above questions. In particular, identify all investments, obligations, liabilities, or other relationships that involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

If any conflicts are found, I will divest my interest

9. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.

Currently, no conflicts have been identified

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 27, 2009

The Honorable Tom Harkin
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jill E. Sommers, who has been nominated by President Obama for the position of Commissioner of the Commodity Futures Trading Commission.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosure

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Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

Date of Appointment, Candidacy, Election or Nomination (*Month, Day, Year*)	Reporting Status (*Check appropriate boxes*)	☐ Incumbent	Calendar Year Covered by Report	☒ New Entrant, Nominee, or Candidate	☐ Termination Filer / Termination Date (*If Applicable*) (*Month, Day, Year*)
Reporting Individual's Name	Last Name: Sommers			First Name and Middle Initial: Jill E.	
Position for Which Filing	Title of Position: Commissioner			Department or Agency (*If Applicable*): Commodity Futures Trading Commission	
Location of Present Office (or forwarding address)	Address (*Number, Street, City, State, and ZIP Code*): 1155 21st Street, NW Washington DC 20581			Telephone No. (*Include Area Code*): 202 418-5030	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: CFTC Commissioner since 08/09/07				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Senate Agriculture Committee			Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: J Sommers			Date (*Month, Day, Year*): 7/21/09	
Other Review (If desired by agency)	Signature of Other Reviewer: [illegible]			Date (*Month, Day, Year*): 07/21/2009	
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: [illegible]			Date (*Month, Day, Year*): 7-21-09	
Office of Government Ethics Use Only	Signature: [illegible]			Date (*Month, Day, Year*): 7/21/09	

Comments of Reviewing Officials (*If additional space is required, use the reverse side of this sheet*)

(*Check box if filing extension granted & indicate number of days* _____) ☐

(*Check box if comments are continued on the reverse side*) ☐

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)-- Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Agency Use Only

OGE Use Only
JUL 21 2009

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Reporting Individual's Name: Sommers, Jill E.

SCHEDULE A

Page Number: 2

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual acount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Asset	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Common				x												x						x										
	Doe Jones & Smith, Hometown, State			x																												Law Partnership Income $130,000	
	Kempstone Equity Fund					x								x																			
	IRA: Heartland 500 Index Fund							x						x										x	x								
1	J/ General Electric		x														x				x												
2	J/Intel		x														x				x												
3	J/J.P. Morgan Chase		x														x				x												
4	J/Kayne Anderson MLP Invst		x											x			x				x												
5	J/Microsoft Corp		x														x				x												
6	J/Lord Abbett Affiliated Funds		x											x			x				x												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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Reporting Individual's Name: Sommers, Jill E.

SCHEDULE A continued

(Use only if needed)

Page Number: 3

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (None ☐)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	J/Legg Mason Large Cap Growth Fund		x											x			x				x												
2	Starbucks		x														x				x												
3	Coca Cola Co		x														x				x												
4	JP Morgan Chase		x														x				x												
5	General Electric Co.		x														x				x												
6																																	
7																																	
8																																	
9	Dreyfus Premier Strategic Value Fund		x											x			x				x												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Sommers, Jill E.

SCHEDULE A continued

(Use only if needed)

Page Number: 4

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Legg Mason Partners Aggressive Growth Fund		x											x			x				x												
2	Legg Mason Partners Large Cap Grwoth Fund		x											x			x				x												
3	Lord Abbett Affiliated Fund		x											x			x				x												
4	Morgan Stanley S&P Index Fund		x											x			x				x												
5	Templeton Growth Fund		x											x			x				x												
6	Merrill Lynch & Co. Medium Term Note		x																x		x												
7	San Bernadino Co. CA Financial Authority Pension Obligation		x																x		x												
8	Harrisburg PA Redev Author Rev		x																x		x												
9																																	

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Sommers, Jill E.

SCHEDULE A continued

(Use only if needed)

Page Number: 5

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (None ☐)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Citibank Bank Deposit Savings		x																x		x												
2	J/Citibank Bank Deposit Savings			x															x		x												
3	Chavy Chase Bank Checking		x																x		x												
4	J/Congressional Federal Credit Union Checking		x																x		x												
5	J/Congressional Federal Credit Union Savings		x																x		x												
6	S/American Funds VCSP College America 529 Funds for three dependents include		x											x							x												
7	Euro Pacific Growth Fund SMALLCAP World Fund																																
8	The Growth Fund of America Investment Company of America																																
9																																	

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name

SCHEDULE B

Page Number

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x)			Date (Mo., Day, Yr.)	Amount of Transaction (x)											
		Purchase	Sale	Exchange		$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
Example:	Central Airlines Common	x			2/1/99			x									
1																	
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1			
2			
3			
4			
5			

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Reporting Individual's Name: Sommers, Jill E.

SCHEDULE C

Page Number: 6

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None [x]

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (x): $10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x								
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand					x						
1																
2																
3																
4																
5																

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None [x]

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1			
2			
3			
4			
5			
6			

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Reporting Individual's Name		Page Number
Sommers, Jill E.	**SCHEDULE D**	7

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None [X]

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1					
2					
3					
4					
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None [X]

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

Prior Editions Cannot Be Used.

BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
Kenneth Albert Spearman

2. Date and place of birth.
August 26, 1944, East Chicago, Indiana

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).
Married to Maria Spearman (Hunyh Mo Khanh). Maria is a Personal Trainer who is self- employed and works out of our home at 42 Enclave Drive, Winter Haven, Florida 33884.

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
-Governors State University, 9/1975 to 8/1978, Masters in Business Administration, 8/1978 (was working for Arthur Andersen & Co. while attending graduate school).

-Indiana University, 9/1970 to 8/1973, Bachelors of Science, 8/1973.

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

2006-present **AgFirst Farm Credit Bank - Appointed Director**
Serves as an appointed director on the board of AgFirst Farm Credit currently a member of the Governance Committee.

2003-2006 **Lake Wales Medical Center - Board Member**

1991-2007 **CITRUS WORLD, INC. - Director, Internal Audit**
Responsible for the design and implementation of annual plans for reviewing and appraising the soundness, adequacy, and application of accounting, financial, and other operating internal controls.

1980-1991 **CITRUS CENTRAL, INC. - Controller, General Accounting**
Responsible for the financial management of reporting function for $100+ million company with a staff of four accountants. Cash management, receivables, payables, payroll, credit, insurance, general ledger, financial statement preparation, budgets, treasury function, annual audit coordination are examples of areas within my purview.

1976-1980 **JAMES WILLIAMS & CO. - Co-founder, Certified Public Accountants Firm**
Responsible for planning, directing and monitoring financial, compliance and operational audits for a wide variety of clients in both the private and public sectors. Managed financial and treasury/controllership functions performed by seven staff and senior accountants.

1973-1976 ARTHUR ANDERSEN & CO. - **Audit Staff, Small Business Division**
Performed independent audit examinations at both the staff and project-lead levels, for clients in the manufacturing, hotel and not-for-profit sectors. Functions included audits, preparation of special reports, costs analysis, purchase investigations and tax preparation. Evaluations of internal controls and suggesting improvements along with drafting financial statements and disclosure footnotes were also performed.

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, and type of discharge received.
Yes, from 06/1962 until 10/1965. I served in the US Army Intelligence Service attaining the rank of Specialist Fifth Class. My service number was 167 39 568 and I received an Honorable Discharge.

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service, grade levels, and whether such positions were elected or appointed.
None.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.
Board of Directors resolution recognition from Citrus World, Inc. for faithful and dedicated service...2007, and the Award of Excellence from National Society of Accountants for Cooperatives...2003, and also received an award from Lake Wales Medical Center for servicing as Board Chairman....2005.

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.
Institute of Internal Auditors, National Society of Accountants for Cooperatives, Florida Farm Bureau.

10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry, agricultural credit, or other matters within the jurisdiction of this Committee or the Farm Credit Administration.

Membership articles written and published in the National Society of Accountants for Cooperatives newsletter (News and Views) while serving as the groups National President (listed below). The articles published were of an administrative, motivational and strategic planning nature written quarterly during my one year term. Please see attached a copy of each quarterly newsletter with my message on

front page. The list below is a complete listing of all my published writings.

- **"President's Message," *News & Views,* National Society of Accountants for Cooperatives (Fall 2002).**
- **"President's Message," *News & Views,* National Society of Accountants for Cooperatives (Winter 2002).**
- **"President's Message," *News & Views,* National Society of Accountants for Cooperatives (Spring 2003).**
- **"President's Message," *News & Views,* National Society of Accountants for Cooperatives (Summer 2003).**

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?
Under the terms of my ethics agreement, I will resign from my current employer upon confirmation by the Senate.

2. List sources, amounts and dates of all expected receipts from deferred income arrangements, stock options, uncompleted contracts, and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.
Florida's Natural Growers, a division of Citrus World, Inc. $123,500, one third of which to be received over the next three years. AgFirst Farm Credit Bank, $34,000, one fourth of which to be received over the following four years after separation.

3. Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch? (If yes, please give a brief description including location, size and type of operation.)
No.

4. Have you, or any partnership or closely held corporation in which you have an interest, ever participated in federal commodity income and price support programs? (If yes, provide all details including amounts of government payments and loans received or forfeited by crop and farm, et cetera during the past five years.)
No.

5. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any current or previously existing agency of the Department of Agriculture, including through any of the farm or rural development lending programs? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.)
No.

6. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from, involving, or handled by any current or previously existing institution regulated or overseen by the Farm Credit Administration? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.)
No.

7. Have you, or any partnership or closely held corporation in which you have an interest, received payments for crop losses from the federal crop insurance program in the past 5

years? (If yes, give details.)
No.

8. Have you ever received a government guaranteed student loan? If so, has it been repaid?
Yes and they were repaid in full over 30 years ago.

9. If confirmed, do you have any plans, commitments, or agreements to pursue or continue outside employment or engage in or continue any business or vocation, with or without compensation, during your service with the government? (If so, explain.)
No.

10. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)
No.

11. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)
No.

12. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Farm Credit Administration, or before Congress involving matters within the jurisdiction of this Committee, the Department of Agriculture, or the Farm Credit Administration.
None.

13. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above questions. In particular, identify all investments, obligations, liabilities, or other relationships that involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.
Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Farm Credit Administration's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

14. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.
Upon confirmation to the FCA Board, I will resign from my position on the board of directors of the AgFirst Farm Credit Bank (AgFirst). I will also sign the Ethics Pledge required by the Obama administration.

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 23, 2009

The Honorable Tom Harkin
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510-6000

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Kenneth A. Spearman, who has been nominated by President Obama for the position of Board Member of the Farm Credit Administration.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

ETHICS AGREEMENT

July 21, 2009

Wendy R. Laguarda
Designated Agency Ethics Official & Assistant General Counsel
Office of General Counsel
FARM CREDIT ADMINISTRATION
1501 Farm Credit Drive
McLean, VA 22102-5090
(703) 883-4234

Dear Ms. Laguarda:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Board Member of the Farm Credit Administration.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position on the board of directors of the AgFirst Farm Credit Bank (AgFirst). For one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which AgFirst is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will cash out my deferred savings plan (Savings Plan) with AgFirst within 90 days of my confirmation.

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Sincerely,

Kenneth A. Spearman

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U.S. Office of Government Ethics

Form Approved:
OMB No. 3209-0001

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Date of Appointment, Candidacy, Election or Nomination (*Month, Day, Year*)	Reporting Status (*Check appropriate boxes*)	☐ Incumbent	Calendar Year Covered by Report	☒ New Entrant, Nominee, or Candidate	☐ Termination Filer / Termination Date (*If Applicable*) (*Month, Day, Year*)
Reporting Individual's Name	Last Name: Spearman			First Name and Middle Initial: Kenneth A.	
Position for Which Filing	Title of Position: Farm Credit Administration Board Member			Department or Agency (*If Applicable*): Farm Credit Administration	
Location of Present Office (or forwarding address)	Address (*Number, Street, City, State, and ZIP Code*): Farm Credit Administration --1501 Farm Credit Drive, McLean, VA 22102			Telephone No. (*Include Area Code*): (703) 883-4020	
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: None				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Agriculture, Nutrition and Forestry			Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: [signature]			Date (*Month, Day, Year*): 6/29/2009	
Other Review (If desired by agency)	Signature of Other Reviewer: [signature]			Date (*Month, Day, Year*): 7/2/09	
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/Reviewing Official: [signature]			Date (*Month, Day, Year*): 7.2.09	
Office of Government Ethics Use Only	Signature: [signature]			Date (*Month, Day, Year*): 7/23/09	

Comments of Reviewing Officials (*If additional space is required, use the reverse side of this sheet*)

(*Check box if filing extension granted & indicate number of days* _____) ☐

(*Check box if comments are continued on the reverse side*) ☐

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)-- Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Agency Use Only

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JUL 16 2009

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U.S. Office of Government Ethics

Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A

Page Number: 2

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual acount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Common			x													x						x										
	Doe Jones & Smith, Hometown, State			x																												Law Partnership Income $130,000	
	Kempstone Equity Fund					x								x										x									
	IRA: Heartland 500 Index Fund							x						x											x								
1	IRA: Amer Bal Fund (Wachovia Securites)			X										X							X												
2	IRA: Amer Mutual FD Inc (Wachovia Securites)			X										X							X												
3	IRA: Amer Europacific Growth Fd (Wachovia Securites)			X										X							X												
4	IRA: GoldmanSachs Growth Opps FD (Wachovia Securites)		x											X							X												
5	IRA: Amer Growth Fund of America (Wachovia Securites)				x									X							X												
6	IRA: Invest Co America (Wachovia Securites)			x										X							X												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 3

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	IRA: Columbia FD MidCap Value (Wachovia Securities)		X											X							x												
2	IRA: Frank/Temp Mutual Series FD (Wachovia Securities)		X											X							X												
3	IRA: Amer New Perspective FD (Wachovia Securities)			X										X							x												
4	IRA: Amer Small Cap World FD (Wachovia Securities)			X										X							X												
5	Roth: Amer Fundametnal Invs Inc (Wachovia Securities)		X											X							x												
6	Roth: Hartford Cap Apprec FD (Wachovia Securities)		X											X							X												
7	(Wachovia Securities) IRA: Amer Balanced FD (spousal)		X											X							X												
8	(Wachovia Securities) Roth: Hartford Cap Apprec FD (spousal)		X											X							X												
9	(Wachovia Securities) Roth: Income Fund Americ Inc (spousal)		X											X							X												

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 4

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CD: Wachovia Bank (Personal Savings Account)			X															X			X											
2	CD/Roth: Advanta Bank (Wachovia Securities)		X																X		X												
3	CD/IRA: NBT Bank (Wachovia Securities)		X																X			X											
4	CD/Roth: Discover Bank (Wachovia Securities) (Spousal)		X																X			X											
5	CD/IRA: Discover Bank (Wachovia Securities)			X															X				X										
6	CD/IRA: National Bank Com (Wachovia Securities)		X																X		X												
7	CD: Wachovia Bank (Personal Savings Account)		X																X		X												
8	CD/Roth: Capital One Natl Assoc. (Wachovia Securities)		X																X		X												
9	CD/IRA: Discover Bank (Wachovia Securities)			X															X				X										

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 5

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CD/IRA: GMAC Bank (Wachovia Securities)		X																X		X												
2	CD/Roth: Capital One Natl Assoc (Wachovia Securities)		X																X			X											
3	CD/Roth: Lehman Bank (Wachovia Securities) (Spousal)		X																X		X												
4	CD/Roth: Lehman Bank (Wachovia Securities)		X																X		X												
5	CD/Roth: Barrington Bk & Trust (Wachovia Securities) (Spousal)		X																X		X												
6	CD/Roth: Barrington Bk & Trust (Wachovia Securities)		X																X *		X												
7	CD: Wachovia Bank (Personal Savings Account)		X																X			X											
8	CD/IRA: Wachovia Bank (Wachovia Securities)		X																X			X											
9	CD/Roth: America Express Bank (Wachovia Securities) (Spousal)		X																X	X													

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Prior Editions Cannot be Used

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U.S. Office of Government Ethics

Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 6

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CD/Roth: American Express Bank (Wachovia Securities)		X																X		X												
2	CD/Roth: Sallie Mae Bank (Wachovia Securities) (Spousal)		X																X		X												
3	CD/IRA: Sallie Mae Bank (Wachovia Securities)		X																X		X												
4	CD/IRA: Imperia Cap Bank (Wachovia Securities)			X															X			X											
5	CD/IRA: First State Bank (Wachovia Securities)		X																X		X												
6	CD/Roth: Discover Bank (Wachovia Securities) (Spousal)		X																X			X											
7	CD: Wachovia Bank (Personal Savings Account)		X																X		X												
8	CD/Roth: Discover Bank (Wachovia Bank) (Spousal)		X																X		X												
9	CD/IRA: Wash Mutual Bank (Wachovia Securities)		X																X		X												

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

None ☐

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CD/IRA: Wash Mutual Bank (Wachovia Securities) (Spousal)		X																X		X												
2	CD/IRA: Wachovia Bank (Wachovia Securities)		X																X			X											
3	CD/IRA: Goldman Sach (Wachovia Securities)		X																X			X											
4	CD/IRA: Wachovia Bank (Wachovia Securities)		X																X			X											
5	CD/IRA: Discover Bank (Wachovia Securities)		X																X			X											
6	CD: Wachovia Bank (Personal Savings Account)		X																X			X											
7	CD/IRA: CapMark Bank (Wachovia Securities)		X																X			X											
8	CD/Roth: Wachovia Bank (Wachovia Securities)		X																X			X											
9	CD: Wachovia Bank (Personal Savings Account)		X																X			X											

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Reporting individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 8

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	CD/IRA: Wachovia Bank (Wachovia Securities)		X																X		X												
2	CD/IRA: Citi Bank (Wachovia Securities)		X																X		X												
3	(Wachovia Securities) Wachovia Bank (Personal Saving Account)		X																X		X											Money Market Account	
4	John G. Wood & Associates (Wellness Center) Personal Trainer																															Spousal Salary	
5	Citrus Central (former employer) (no Longer exists) Pension - Defined Benefit Plan			X																												Plan Distribution $ 3.759 per 08/09 YTD	
6	AgFirst Farm Credit Bank																															Directors Pay $ 40,556 per 08/09 YTD	
7	AgFirst Farm Credit Bank Deferred Savings Plan (cash)			X															X		X												
8	Florida's Natural Growers (Former employer)																															Vacation.Health Insurance pay $ 33,659 one-time payment	
9	Wachovia Bank Health Savings Account (Spousal) (cash)		X																X		X												

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Page Number: 9

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

#	Assets and Income (None ☐)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	Florida Natural Growers (FNG) (former employer) Deferred Comp. Plan (5-yr. pay-out) Administeed by Newport Group					X															X											Plan Distribution $85,858 per 08/09 years	
2	FNG Asset-MSF Blackrock Money Marker 9%		X											X							X												
3	FNG Asset-Fidelity VIP Investment Grade Bond 28%			X										X							X												
4	FNG Asset-MSF VIT Value 7%		X											X							X												
5	FNG Asset-MSF MetLife Stock Index 14%			X										X							X												
6	FNG Asset-MSF T. Rowe Price Large Cap Growth 7%		X											X							X												
7	FNG Asset-Goldman Sachs VIT Mid Cap Value 6%		X											X							X												
8	FNG Asset-MIST Van Kampen Mid Cap Growth 5%		X											X							X												
9	FNG Asset-MIST Third Avenue Small Cap Value 1%		X											X							X												

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE A continued

(Use only if needed)

Assets and Income — BLOCK A

Valuation of Assets at close of reporting period — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

None ☐

#	Assets and Income (BLOCK A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
1	FNG Asset-MIST Met/AIM Small Cap Growth 1%		X											X							X												
2	FNG Asset-Morgan Stanely EAFE Index 22%			X										X							X												
3																																	
4																																	
5																																	
6																																	
7																																	
8																																	
9																																	

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE B

Page Number: 11

Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
Example:	Central Airlines Common	x			2/1/99			x									
1	N/A																
2																	
3																	
4																	
5																	

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1	N/A		
2			
3			
4			
5			

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Reporting Individual's Name: Kenneth A. Spearman

SCHEDULE C

Page Number: 12

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None [X]

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	$10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x								
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10 %	on demand					x						
1																
2																
3																
4																
5																

Category of Amount or Value (x)

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None [ ]

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1	Deferred Compensation Plan	Florida Natural Growers	12/91
2	Defined Benefit Plan	Citrus Central	10/80
3	Deferred Savings Plan	AgFirst Farm Credit Bank	01/06
4			
5			
6			

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Reporting Individual's Name		Page Number
Kenneth A. Spearman	**SCHEDULE D**	13

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☐

	Organization (*Name and Address*)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1	AgFirst Farm Credit Bank, 1401 Hampton Street, Columbia, South Carolina 29202	Bank	Board Director	01/2006	Present
2	Florida's Natural Growers, 20205 US Hwy 27, Lake Wales, Florida 33853	Citrus Marketer and Processor	Director of Internal Audit	12/1991	12/2007
3					
4					
5					
6					

Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None ☐

	Source (*Name and Address*)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1	AgFirst Farm Credit Bank, 1401 Hampton street, Columbia, South Carolina 29202	Board Director
2	Florida Natural Growers, 20205 US Hwy 27, Lake Wales, Florida 33853	Director of Internal Audit
3		
4		
5		
6		

Prior Editions Cannot Be Used.

JEFF BINGAMAN
NEW MEXICO

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(202) 224-5521
IN NEW MEXICO--1-800-443-8658
TDD (202) 224-1782
senator_bingaman@bingaman.senate.gov

United States Senate

September 24 , 2009

The Honorable Blanche Lincoln
Chairman
Senate Agriculture, Nutrition and Forestry Committee
Washington, D.C. 20510

Dear Chairman Lincoln:

I am writing to support President Obama's nomination of Scott O'Malia to be a Commissioner on the Commodity Futures Trading Commission, and to encourage the Agriculture Committee to move quickly to approve his nomination.

Scott served on the Energy and Natural Resources Committee in 2003 before moving to the Appropriations Committee. Scott's primary responsibilities on the committee were oil and natural gas issues. He demonstrated a deep understanding of these issues and of the importance energy markets have on our economy. During his tenure on the Committee, Scott was always willing to cooperate with my staff in the development of hearings and legislation.

Since joining the Energy and Water Development Subcommittee on Appropriations, Scott has continued to work with the Energy and Natural Resources Committee to implement the 2005 and 2007 authorizing statutes. He has been willing to listen and develop constructive solutions to complex energy policy problems. A good example of his commitment to improving our nation's investment in a balanced energy strategy has been his effort to expand the role of the Department of Energy's laboratories in the areas of alternative energy and climate modeling. Scott understands the importance of diversifying our energy generation mix, and the critical role our national labs play in this effort.

In addition to Scott's work on both the authorizing and appropriations committees, I also believe his private sector experience (electric generation) provides him with the experience and knowledge that will benefit the Commodity Futures Trading Commission.

For these reasons, I fully support Scott O'Malia's nomination to serve the Commodities Futures Trading Commission.

Sincerely,

Jeff Bingaman
United States Senator

ALBUQUERQUE (505) 346-6601 | FARMINGTON (505) 325-6030 | LAS CRUCES (575) 523-6561 | ROSWELL (575) 622-7113 | SANTA FE (505) 988-6647

BYRON L. DORGAN
NORTH DAKOTA

COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE & TRANSPORTATION
ENERGY & NATURAL RESOURCES
INDIAN AFFAIRS

CHAIRMAN, DEMOCRATIC POLICY COMMITTEE

United States Senate
WASHINGTON, DC 20510–3405

STATE OFFICES

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THIRD AND ROSSER AVENUE
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FARGO, ND 58108
701-232-8031

102 NORTH 4TH STREET, ROOM 105
GRAND FORKS, ND 58203
701-746-8472

100 1ST STREET S.W., ROOM 101
MINOT, ND 58701
701-852-0703

September 22, 2009

The Honorable Blanche Lincoln
Chairman
Senate Agriculture, Nutrition and Forestry Committee
328A Russell Building
Washington, D.C. 20510

Dear Chairman Lincoln:

I am writing to support Scott O'Malia for Commissioner of the Commodity Futures Trading Commission. President Obama nominated Scott earlier this month. I encourage the Agriculture Committee to move quickly to approve this nomination so that the Commission will be fully staffed as it deliberates reforms to the financial and commodities industry.

Since becoming Chairman of the Energy and Water Subcommittee in December 2006, I have worked with Scott O'Malia. Scott has exhibited an in-depth knowledge of energy issues and has worked hard to implement policies that will transform our nation's energy sector. As an example, Scott has been a tireless advocate for improving the effectiveness of the loan guarantee program to ensure that this nation invests its resources in a balanced energy strategy and deploys low emission technology as quickly as possible and on a scale the make a significant and lasting difference.

Scott works in a bipartisan and constructive manner advocating strongly for his Member's position, but willing to find common ground in order to complete the work before the subcommittee. I believe his experience on both the authorizing and appropriations committees and his role in the private sector provide him with the expertise and knowledge that will benefit the Commodity Futures Trading Commission and expand the Commission's depth on energy issues.

I appreciate your taking on this new role at the Committee. And thanks for taking a look at this nomination.

Sincerely,

Byron L. Dorgan

PRINTED ON RECYCLED PAPER

PATTY MURRAY
WASHINGTON

United States Senate

WASHINGTON, DC 20510-4704

COMMITTEES
APPROPRIATIONS
BUDGET
HEALTH, EDUCATION, LABOR AND PENSIONS
RULES AND ADMINISTRATION
VETERANS AFFAIRS

September 29, 2009

The Honorable Blanche Lincoln
Chairman
Committee on Agriculture, Nutrition
and Forestry
Russell Senate Office Building 328A
Washington, D.C. 20510

The Honorable Saxby Chambliss
Ranking Member
Committee on Agriculture, Nutrition
and Forestry
Russell Senate Office Building 328A
Washington, D.C. 20510

Dear Chairman Lincoln and Ranking Member Chambliss:

I write to express my strong support for the nomination of Scott O'Malia to be a Commissioner on the Commodity Futures Trading Commission (CFTC).

Mr. O'Malia has worked well with me and my staff as Minority Clerk to the Appropriations Committee's Energy and Water Subcommittee, of which I am a member. During his tenure on the Appropriations Committee, he served as both Majority and Minority staff. In both capacities, I found him to be straightforward and fair as he worked with me on my priorities over the past five years. I have great confidence that he would bring the same professional and forthright demeanor to the CFTC as a Commissioner.

Mr. O'Malia has legislative and private sector experience related to the energy sector that will be needed on the CFTC as it works to address financial and commodity reform. He has enjoyed good bipartisan working relationships and is someone Senators and Members of Congress should expect to work with effectively in the future if he is confirmed. I urge you to quickly and carefully consider this nomination so that the full complement of Commissioners can be in place as the CFTC undertakes its important role in addressing financial and commodity sector reform.

I am confident that Mr. O'Malia's confirmation as a Commissioner will help the CFTC address pressing regulatory needs. I hope you will give his nomination all due consideration.

Sincerely,

Patty Murray

Patty Murray
United States Senator

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PRINTED ON RECYCLED PAPER

September 29, 2009

The Honorable Blanche Lincoln, Chairman
Senate Committee on Agriculture, Nutrition and Forestry
328A Senate Russell Building
Washington, DC 20510

Dear Senator Lincoln,

I am writing to urge you to support the nomination of the Honorable Harris Sherman who has been nominated for the Under Secretary of Natural Resources and the Environment. I have known Mr. Sherman for over twenty years on both a personal and professional level and can attest to his unique qualifications as a special individual, one having a thorough understanding and respect the for environment and an individual who can help guide the long term management and protection of our natural resources.

Mr. Sherman's experience in the caring management of people and his breadth of experience as a well respected public servant will lend itself well in the position that he is being nominated to fill. Mr. Sherman has the ability to manage and guide policy for our forests and to protect wildlife and water quality on the lands that he will be overseeing. In addition he is well heeled in the laws governing the USFS and the unique balance that the agency faces for the multi-use of its resources.

It is interesting times that we face as we seek to better understand how to protect our natural resources for future generations. I believe that Mr. Sherman has the commitment, experience and the depth of knowledge to be a fair and generous protector of our natural resources and encourage you to support his nomination. He is a good and honest person that can seek consensus, solve problems and help establish policies that further protect our environment. We wish you well in the upcoming proceedings and hope that you will support his nomination.

Yours truly,

Timothy H. Beck
Executive Vice President, Planning

11025 Pioneer Trail, Suite 100, Truckee, CA 96161 (530) 550-5100 • Fax (530) 550-5116
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10/04/2009 19:18 2086342806 BRUNDAGE MOUNTAIN

brundage
MOUNTAIN RESORT

October 2, 2009

The Honorable Blanche Lincoln
Chairman
Senate Committee on Agriculture, Nutrition & Forestry
328A Senate Russell Building
Washington, DC 20510

Senator Lincoln:

Brundage Mountain Resort is located on the Payette national Forest in west central Idaho. Agriculture and tourism are the largest industries in Idaho, a state rich in natural resources. We are strongly in support of appointing Harris Sherman to the position of USDA Under Secretary for Environment and Natural Resources. Mr. Sherman has the experience with the agriculture, recreation, forest industries and the states directly affected by them to be an outstanding Under Secretary for Environment and Natural Resources. He has the back ground to provide unique insight on the effect of Washington decisions on states dependent on natural resources and the knowledge to craft decisions that will benefit all stake holders.

Thank you for your consideration!

Sincerely;

Frederick P. Certano
President/GM
Brundage Mountain Resort
President
Idaho Ski Areas Association

Brundage Mountain Company • P.O. Box 1062 • McCall, Idaho 83638
208.634.4151 • fax 208.634.2806 • 1.800.888.7544
www.brundage.com • info@brundage.com

Hon. Blanche Lincoln
Hon. Saxby Chambliss
United States Senate

Dear Chairman Lincoln and Ranking Member Chambliss:

I write you today to voice support for the nomination of Mr. Harris Sherman to the position of Under Secretary of Agriculture for Natural Resources and Environment.

Mr. Sherman's reputation for pragmatism and earnest collaboration is well-earned. Throughout his tenure as the Executive Director of the Colorado Department of Natural Resources, he has shown a calm commitment to building consensus and honoring stakeholder processes.

On contentious issues ranging from the regulation of oil and gas development to the designation of roadless areas in Colorado's National Forests, Mr. Sherman has maintained a voice of reason and a sincere willingness to hear all sides and strive for compromise, often amidst a cacophony of opposition from the extreme areas of the ideological spectrum. While his service has been of immense value to the people of Colorado and the environment, the compromises he has crafted have not always pleased everyone. But the results are impressive.

Mr. Sherman's accomplishments include a balanced regulatory regime that, for the first time, injects environmental protection and public health as factors in the consideration of oil and gas drilling permit applications and the culmination of a locally-driven stakeholder process to designate appropriate areas in national forests as off-limits to road building.

I fully expect Mr. Sherman's professionalism, experience and acumen will serve the President and the nation well. We will be sorry to see him leave Colorado, but will take solace in the fact that his public service will continue.

Very truly yours,

Dan Grossman
Rocky Mountain Regional Director
Environmental Defense Fund

PO Box 2308 • 249 Warren Ave • Silverthorne, CO 80498• 970-468-0295 • Fax 970-468-1208 • www.nwc.cog.co.us

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Silverthorne

September 29, 2009

United States Senate Agriculture, Nutrition and Forestry Committee
Senator Harkin, Chair
Senator Chambliss, Ranking Republican Member

Dear Senators Harkin, Chambliss and Committee Members,

Northwest Colorado Council of Governments is a voluntary association of twenty-eight county and municipal governments in the High Country of Colorado. Nearly seventy percent of the ten thousand square mile region covered by the NWCCOG member jurisdictions is owned by the people of the United States and managed by a variety of federal agencies, principal of which is the USDA Forest Service. The NWCCOG Region is also the headwaters of the Colorado and North Platte River Systems, supplying domestic, agricultural and recreational water to vast areas of the Great Plains and Southwest.

In matters pertaining to the management of national forest system lands and water quality and quantity, we have worked with Harris Sherman in his position as Executive Director of the Colorado Department of Natural Resources. In our experience, we have found Director Sherman to be not only a proponent, but an active participant in collaborative conservation. He has demonstrated his ability to participate in good faith in collaborative processes with a diverse array of stakeholders. Those processes are often long, tedious, and arduous as a wide variety of opinions are explored, but they are nonetheless necessary to achieve quality and lasting decisions regarding our forest and water resources in an open, neighborly and democratic manner indicative of the Rocky Mountain West.

We consider Harris Sherman to be a good partner in the difficult job of managing public resources and encourage you to confirm him as USDA Undersecretary for Natural Resources and Environment.

Sincerely,

Gary Severson, Executive Director

NATIONAL
SKI AREAS
ASSOCIATION

September 23, 2009

The Honorable Blanche Lincoln
Chairman
Senate Committee on Agriculture, Nutrition & Forestry
328A Senate Russell Building
Washington, DC 20510
Fax: 202 228 2125

Re: Harris Sherman for USDA Undersecretary
of Environment and Natural Resources

Dear Senator Lincoln:

I am writing on behalf of the National Ski Areas Association (NSAA) in support of Harris Sherman for the position of USDA Under Secretary for Environment and Natural Resources. NSAA is the trade group for ski areas across the country. Our resort members account for 95% of the skier/snowboarder visits in the United States. One hundred and thirty-four (134) member resorts operate on National Forest System lands.

Harris Sherman's entire career has been dedicated to environment and natural resources issues. As a result of his experience directing the Colorado Department of Natural Resources, he has a great appreciation for working cooperatively with stakeholders to solve problems. His advocacy experience as an attorney will serve him well in representing the Department before Congress. Harris' communication, political and people skills are unmatched in the pool of candidates that have been considered for this post. On a personal level, Harris is one of the most likeable and personable individuals you could ever meet.

Harris Sherman will be a great asset to the Secretary of Agriculture and would provide tremendous leadership for the Administration on environment and natural resources issues. Thank you for your consideration of NSAA's comments.

Best Regards,

Michael Berry
President

September 29, 2009

The Honorable Blanche Lincoln
Chairman
Senate Committee on Agriculture
328-A Russell
Washington, DC 20510

The Honorable Saxby Chambliss
Ranking Member
Senate Committee on Agriculture
328-A Russell
Washington, DC 20510

Dear Chairman Lincoln and Ranking Member Chambliss:

The Society of American Foresters represents 14,000 foresters, men and women who care deeply for our Nation's vast forest resources. As a professional association, we work closely with the U.S. Department of Agriculture (USDA) to implement conservation programs, state and private forest programs and manage the National Forests. We are writing you in support of the nomination of Harris Sherman to become the Undersecretary for Natural Resources and the Environment (NRE) at USDA.

The Undersecretary for NRE is a key position for overseeing the conservation programs of the Natural Resource Conservation Service (NRCS) and the U.S. Forest Service (USFS). Mr. Sherman's background in forestry, conservation and natural resource protection will serve him well to lead USDA's conservation and forestry division. We appreciate his record of success in implementing conservation strategies, finding common ground, and his commitment and passion for the wise use of natural resources, specifically his support for forest management.

We respectfully urge you to approve Mr. Sherman's nomination and thank you for your consideration.

Sincerely,

Michael T. Goergen, Jr.
Executive Vice President and CEO

September 18, 2009 Via Fax: 202.228.2125

The Honorable Blanche Lincoln
Chairman
Senate Committee on Agriculture, Nutrition & Forestry
328 A Senate Russell Building
Washington, DC 20510

Re: Confirmation of Nomination of Harris Sherman as USDA Under Secretary for Environment and Natural Resources

Chairman Blanche Lincoln:

As a long time member of the National Ski Areas Association, the Steamboat Ski & Resort Corporation is pleased to read that **Harris Sherman** has been nominated to be the USDA Under Secretary for Environment and Natural Resources. We congratulate Mr. Sherman on his nomination.

During his many years at Arnold & Porter, LLC, one of the top law firms in the country, Harris dealt with numerous public lands issues and always demonstrated professionalism, dedication and focus.

He has worked diligently to improve conservation of open space, wilderness areas, water supplies and forest planning, has a wealth of knowledge with extensive work in the ski industry. He has championed efforts for development of the Colorado Roadless Rule and has dedicated much of his professional career to protecting Colorado's precious natural resources. We are confident that he will serve our nation with the same regard.

We urge the Senate Agriculture Committee to confirm Harris Sherman as this nation's next Under Secretary for Environment and Natural Resources.

Respectfully submitted,

Christopher S. Diamond
President and COO

bcc: Geraldine Link

2305 Mt. Werner Circle • Steamboat Springs, Colorado 80487 • 970.879.6111 • 970.879.7844 fax • www.steamboat.com

I and the members of the Colorado Timber Industry Association have had a good working relationship with Harris Sherman. He has been very thoughtful and constructive on issues including Roadless Rule, bark beetle epidemics, and national forest timber sale programs. I believe Harris is well-suited and well-qualified for Under Secretary for NRE.
Tom Troxel
Ex Director
Colorado Timber Industry Assn
Sent from my Verizon Wireless BlackBerry

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September 16, 2009

The Honorable Michael Bennet
702 Hart Senate Office Building
Washington, DC 20510

Dear Senator Bennet:

I am writing to support the nomination of Harris Sherman for USDA Under Secretary for Environment and Natural Resources. I would like to strongly encourage you as a member of the Senate Committee on Agriculture, Nutrition and Forestry to vote to confirm Mr. Sherman for this appointment. As one of the largest ski operators in the country, Vail Resorts is made up of five ski resorts in Colorado, California and Nevada, all of which operate on National Forest System lands.

In all of my dealings with Harris Sherman, I have known him to be incredibly balanced in his approach to issues and problems. He does a remarkable job of bringing competing interests to the table and creating an environment for them to work cooperatively. As you well know, he has had great success as the Director of the Colorado Department of Natural Resources doing just that, particularly spearheading the new oil and gas regulations that passed through the Colorado legislature this year.

Harris Sherman has spent his life working on environmental issues. His commitment to working to preserve and protect the natural resources and iconic landscapes that make up our beautiful country is unmatched. I strongly believe that Mr. Sherman will bring these values to USDA at a time when leadership in creating policies that protect the environment now and into the future is critical.

Harris Sherman would be a true asset and provide great leadership for the Administration. Thank you for your consideration.

Sincerely,

Rob Katz
CEO and Chairman
Vail Resorts

Robert Katz • Chief Executive Officer

Vail Resorts, Inc. • 390 Interlocken Crescent, Suite 1000 Broomfield, CO 80021 • vailresorts.com
Direct 303 404 1801 • 303 404 6401 • rkatz@vailresorts.com

QUESTIONS AND ANSWERS

SEPTEMBER 30, 2009

Senator Blanche L. Lincoln

Question for Commissioners Chilton and Sommers

On June 3, 2008, the CFTC announced that the Division of Enforcement was conducting an investigation of the February/March 2008 price run-up in the cotton futures contract. The Commission took the extraordinary step of announcing an ongoing investigation because of the concerns expressed by market participants at the April 2008 agricultural forum. The American Cotton Producers of the National Cotton Council told the CFTC forum that the cotton futures market was totally dysfunctional and that cotton producers were unable to hedge their price exposure and that their concerns extended to cotton buyers with whom growers had contracted new crop sales. It has now been nineteen months since the cotton market disruption. Can you provide this Committee with any additional information about the investigation or let us know when we might expect to see the official report of the investigation?

QUESTIONS FOR AVALOS

AMS: FRESH PRODUCE PROCUREMENT FOR NUTRITION PROGRAMS

The Agricultural Marketing Service (AMS) has responsibility for purchasing the food that is distributed to schools, food banks, and other institutions through USDA's nutrition and food assistance programs. Over the years, the amount of fresh produce purchased by AMS has steadily declined to the point that fresh produce represents less than 5 percent of the total value of food purchased in any given year. Recently, AMS has begun several pilot programs to purchase fresh-cut produce for distribution to schools participating in the National School Lunch Program (NSLP). Many would like to see these programs expanded in as expeditious a manner as possible.

Can we have your assurance that, if confirmed, you will work quickly to develop and implement a plan to continue the expansion of AMS's fresh-cut produce purchases?

AMS: PROCESS VERIFIED MEAT LABEL CLAIM STANDARDS

Currently, both AMS and the Food Safety and Inspection Service (FSIS) verify claims made on meat product labels. The result can be uncertainty and confusion for consumers as to what it is they are purchasing, and hardship for farmers and ranchers using alternative methods of production.

Can we have your assurance that you will work with the yet-to-be-named Under Secretary for Food Safety to develop a clear, consistent policy between AMS and FSIS to verify package-label claims with respect to animal production?

APHIS: EMERGENCY PEST AND DISEASE SPENDING

For some time, Congress and the Office of Management and Budget (OMB) have been locked in a disagreement over how to spend emergency funds to fight plant pests. Congress has passed laws to direct the Secretary of Agriculture to use emergency funds when necessary to combat pest outbreaks, only to have OMB later block such spending. In the recent farm bill, Congress again made explicit that these funding decisions belong exclusively to USDA.

If confirmed, can the committee have your assurance that you will work with OMB to ensure that these funding decisions are based on the statutory direction provided in the farm bill?

APHIS: LACEY ACT IMPLEMENTATION

The Lacey Act is the nation's oldest wildlife protection statute. The Act has served as a key tool to combat trafficking in illegal wildlife, fish or plants. Section 8204 of the Food, Conservation and Energy Act of 2008 expands Lacey Act protections to a broader range of plants that are illegally taken with a few exceptions. Excluded from coverage are "common cultivars", except trees, and "common food crops". APHIS has been working to define these two terms for over a year. It's important that APHIS quickly define these terms to help provide clarity for many stakeholders.

Can I have your assurance that you will work with the Animal and Plant Health Inspection Service (APHIS) to provide a definition for these terms as quickly as possible?

Additional Questions for Edward M. Avalos to be Under Secretary of Agriculture for Marketing and Regulatory Programs:

The current Administration and USDA have made Global Food and Energy Security two of their top priorities for American agriculture to play a key role in. Secretary Vilsack has highlighted the role of technology in meeting those goals. Biotechnology, because it allows producers to produce more with less, is one technology that is key in my mind, especially in helping to meet the global population demand for safe food products. Would you agree?

In order for producers and consumers to realize the benefits of agricultural biotechnology, it is essential that USDA implement a timely and science-based approval process for the innovative biotech products waiting to be approved.

It is my understanding that currently the average length of time for agency decision making on petitions for regulatory approval of agricultural of agricultural biotech products has steadily increased from approximately 150 days in 1996 to almost 700 days at present.

This trend is problematic and recent developments with regard to two specific crops have been brought to my attention.

Two and a half years ago, a Federal Court ruled that USDA should have conducted an Environmental Impact Statement before deregulating Roundup Ready alfalfa. Farmers lost the ability to plant biotech alfalfa until USDA completed what APHIS predicted to be a two-year EIS process.

Given the economic crisis that dairy farmers face and the importance of high-quality alfalfa to milk production, it is important USDA make this a priority. The same court just ruled that USDA needs to do an EIS for biotech sugarbeets. It would be logical to conclude more EIS reviews of biotech crops are in USDA's future.

In the near term, what is USDA going to do to complete the overdue EIS for Roundup Ready alfalfa? Is there a commitment of priority and resources to complete the sugarbeet EIS in a more timely way? And in the long-term, how will USDA ensure timely completion of future Environment Impact Studies so that the U.S. regulatory process does not go from being the gold standard of the world to a barrier for much needed innovation?

Finally, how can this Committee be helpful in assuring that USDA has and is utilizing the necessary resources to process science base approvals of ag biotech products in a timely fashion?

Senator John Barrasso, M.D.
Questions for the Record
Senate Committee on Agriculture, Nutrition and Forestry
CFTC, USDA, Farm Credit Nominations Hearing
10:00am, Wednesday, September 30, 2009

Harris D. Sherman, of Colorado, to be Under Secretary of Agriculture for Natural Resources and Environment and to be a Member of the Board of Directors of the Commodity Credit Corporation

1. In Wyoming, where more than half of the state is public land, we are keenly aware of the U.S. Forest Service responsibility for management of its lands. Currently, we face an unprecedented bark beetle infestation that threatens our forests and communities. If confirmed, how will you address the following management challenges related to this infestation?
    a. Programmatic funding for Regions 2 and 4 of the U.S. Forest Service has historically fallen well below need. These regions have been disproportionately deprived of management resources. How will you address the funding needs for management of the bark beetle outbreak throughout Regions 2 and 4?
    b. U.S. Forest Service local managers are facing an unprecedented forest health event. What management authorities do you believe need to be adjusted to meet the challenges posed by this infestation? Specifically, how will the Department, under your direction, address each of those needs?
    c. Bark beetle infestation spreads beyond political boundaries. We must take a regional approach to management of our forests. Specifically, how will you promote regional action to regional management of the bark beetle infestation?

2. Our forest products industry partners are struggling in this economy. Many of the industry partners who historically helped manage federal forests are no longer in business. This increases the burden on federal agencies and weakens our local communities. If confirmed, how will you promote business friendly practices at U.S. Forest Service to sustain and regrow the American forest products industry?

3. U.S. Forest Service recently proposed spending $2.8 million of wildland fire management funding under PL 111-5, the "American Recovery and Reinvestment Act," in Washington, D.C. Of the 5.5 million acres of wildlands nationwide, as defined by the National Interagency Fire Center, Washington, D.C. has none. There is no need for wildland fire management funding in the District of Columbia. While the kind of State and Private Forestry projects proposed for Washington, D.C. have merit, wildland fire management funding should not be diverted for this purpose. U.S. Forest Service must prioritize its limited resources to meet its basic responsibilities. Wyoming communities depend upon adequate management of U.S. Forest Service lands and we demand that the agency get its

priorities straight. If confirmed, how will you direct U.S. Forest Service to prioritize its wildland fire management budget in the future?

4. If confirmed, will you join Secretary of Interior Ken Salazar in supporting west-wide good neighbor authority, that would allow BLM and U.S. Forest Service to enter cooperative agreements with the states to implement forest health projects?

5. U.S. Forest Service renewal of grazing permits is continually backlogged. This is a detriment to public land ranchers and to the day-to-day operation of the U.S. Forest Service range management. If confirmed, specifically how will you address the permit backlog and improve the agency's handling of grazing permit renewals?

Questions from Sen. Max Baucus for nominees considered by the Committee on Agriculture on September 30, 2009

To: Mr. Harris Sherman, Nominee for Undersecretary for Natural Resources and the Environment, United States Department of Agriculture

Congratulations on your nomination to be Undersecretary for Natural Resources and the Environment for the Department of Agriculture. I am pleased that the President has chosen someone with your experience dealing with issues facing the forests, prairies and water resources of the West.

If confirmed, you will oversee programs and implement authorities that have a major impact on the economy and natural environment of my state. One authority the Forest Service has at its disposal is the ability to enter into stewardship contracts that enable it to trade logs and other goods to help carry out projects that reduce hazardous fuels, improve watersheds and other important forest management goals.

Stewardship contracting is very popular in Montana, helping form collaborative partnerships among diverse groups of forest users such as the wood products industry, the conservation community and sportsmen. Stewardship contracting also makes good economic sense for the Service. On one ranger district in my state, stewardship contracting enabled the ranger to perform nearly $1 million of service work for which the district did not have appropriated funds.

While I am pleased that use of stewardship contracting is gradually increasing, I want the Forest Service to do much more. Since the Service was given broader contracting authority in 2003, it has completed only 34 contracts in the Northern Region. Most other regions have completed even fewer. I would like to know if you, as undersecretary, would work to substantially increase use of stewardship contracting, not only in my state, but across the nation. Does the Forest Service need any additional authorities to improve and increase the use of stewardship contracting and agreements?

Additionally, some non-profit groups have told me the Forest Service has been inflexible in determining matching requirements for stewardship agreements. The stewardship authority provides Forest Service and Bureau of Land Management personnel the same discretion in establishing matching requirements. Yet, the Forest Service requires a 20 percent match from non-profits, while the BLM requires no firm match. These non-profits can be valuable partners in stewardship projects and the Service should be more creative in evaluating their contributions. I would like to know if you will take steps to encourage non-profit participation in stewardship agreements.

To Bartholomew Chilton, Jill Sommers and Scott O'Malia, nominees for Commissioners of the Commodity Futures Trading Commission:

Under a cap-and-trade system for carbon emissions, markets for trading of carbon allowances and carbon allowance derivatives are expected to develop. If the CFTC is granted oversight authority over such markets, please provide how the CFTC would ensure the following: (1) the markets are transparent; (2) the markets are free from abuse and unfair manipulation; and (3) the markets have sufficient liquidity.

U.S. Senator Maria Cantwell
Questions for CFTC Nominees
September 30, 2009

Mr. Chilton, O'Malia, and Ms. Sommers:

1. Do you believe that speculation in commodity futures markets -- trading or investing in commodities by persons who do not produce or use the commodity in order to profit from commodity price changes -- can affect the price of commodity futures? Do you believe that speculation in futures markets affects the actual cash price of a commodity?

2. On August 11, the Department of the Treasury submitted to Congress its legislative proposal to regulate the over-the-counter (OTC) derivatives markets. While this proposal is a very important step, there are many areas where the proposal can be strengthened and tightened to fully protect our economy and prevent another financial crisis. On August 17, 2009, CFTC Chairman Gensler sent a letter to the Senate Agriculture Committee recommending specific important changes and additions to the Department of Treasury's legislative proposal. Do you support the Department of Treasury's OTC legislative proposal? In addition, do you support each recommendation included in Chairman Gensler's August 17, 2009, letter to the Senate Agriculture Committee to improve the Department of Treasury's OTC legislative proposal?

3. The CFTC has the authority to establish position limits to prevent traders from acquiring large positions that could be used to manipulate the price of commodities traded on futures exchanges and to prevent price distortions at contract expiration. To protect against excessive speculation, the CFTC sets position limits on some agricultural commodities, but does not do so for energy products such as oil futures. In late July and early August, the CFTC held hearings to address the current application of and exemptions from position limits in energy markets. Do you support Commission-set position limits in energy commodities to ensure that excessive levels of speculation, even in the absence of manipulation, are not causing "sudden or unreasonable fluctuations or unwarranted changes" in the prices of commodities?

4. The CFTC has the authority to exempt the application of speculative position limits for bona fide hedging purposes as defined by the CFTC. Currently, bona fide hedging includes transactions to hedge against exposure a scope of financial activity with no connection to the underlying physical commodity or cash markets. These non-traditional hedges are being used to manage financial risk where transactions have nothing to do with managing commercial risk, allowing speculators seeking to gain price exposure in commodity markets. Since 1991, when the CFTC granted its first bona fide hedge exemption for a non-commercial hedging transaction, the use of swaps by various market participants to hedge price risk has grown substantially. On March 24, 2009, the CFTC published a concept release on eliminating the bona fide hedge exemption for swap dealers. The recommendation was part of the September 2008 "Staff Report on Commodity Swap Dealers and Index Traders with Commission Recommendations" prepared as a result of Commission special calls for information from swap dealers and

index traders issued in June and July 2008. Do you support eliminating the bona fide hedge exemption for non-commercial transactions?

5. The CFTC is underfunded in terms of both budget and staff. Today, the staff numbers approximately 490, a decline of nearly 20% from earlier in the decade. During this time, markets have grown exponentially, and the issues the CFTC faces have increased in complexity. For many years, the President's budget has recommended that Congress impose a user fee on commodity market participants to fund part of the CFTC's activities. The CFTC is currently the only major U.S. financial regulator that is not at least partially funded through user fees. Do you support the imposition of user fees to fund CFTC activities?

6. Current law makes it very difficult for the CFTC to effectively meet its mandate to enforce and deter market manipulation. This is because the CFTC must meet a more rigorous standard to prove market manipulation than other financial market regulatory agencies such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission. The CFTC is currently the only major U.S. financial regulator that must prove "specific intent" to do harm, a much more difficult standard to prove than the "recklessness" standard employed by the SEC, FERC, and FTC. As a result, federal courts have recognized that, with the CFTC's weaker anti-manipulation standard, market "manipulation cases generally have not fared well." In fact, the standard is so weak that in the CFTC's 35-year history, it has only successfully prosecuted and won one single case of manipulation. If the CFTC were granted authority to prosecute manipulation cases under the "recklessness" standard instead of the current "specific intent" standard, how would this improve the Commission's ability to prevent, deter, and enforce market manipulation? Do you support legislation to lower the burden of proof the CFTC must meet in proving manipulation cases?

7. On September 10, 2009, the CFTC Global Markets Advisory Committee (GMAC) announced it would convene a meeting to examine, among other issues, the "Treasury Proposal to Regulate OTC Derivatives" and "CFTC Legislative Language" as it relates to this proposal. In reviewing GMAC membership as posted on the Commission's website, it appears that the committee's membership is comprised of representatives from the various U.S. exchanges, self-regulatory organizations and the financial services industry. While the GMAC's charter requires representation of U.S. and foreign exchanges and market participants, it also requires "end users most directly involved in and affected by market globalization." Without end user and consumer participation, the committee may also not be "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act. Before any future meeting of the GMAC is scheduled, will you commit to broadening its membership to include end users most directly involved in and affected by market globalization to ensure "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act?

Sen. Saxby Chambliss
Questions for the Record
Nomination Hearing
September 30, 2009

Mr. Sherman

1. As I mentioned at the hearing, I have been contacted by several constituents about your nomination. They raise concerns about your approach to managing federal, state and private land. Below is a list of the concerns I have received. Please respond to these concerns.
   - Harris Sherman supports the Clinton-Babbitt Roadless rule and has worked in Colorado to revert to the Clinton-Babbitt Roadless Rule.
   - He would be a threat to oil and gas, mining, coal mining, timber, grazing, gravel extraction and recreation and much more.
   - According to residents of Colorado, Sherman used his position to extort or shake down money from oil and gas firms to fund his wildlife studies in return for his office not opposing their permits. In effect, he set up a "pay to play" approval process for oil and gas permits under the Colorado Dept. of Wildlife.
   - He rewrote important environmental documents with the assistance of environmental activist groups negating public meetings and public comment.
   - Environmental groups had special access under Harris not available to the public or other land users.
   - He set up rules that infringed on private property.
   - He set up a system whereby the CO Dept. of Wildlife could interfere with private contracts between farmers, ranchers and landowners and oil and gas and mining companies. He was able to blow up private contracts where he did not want oil and gas or mining operations to occur.
   - It is likely he will give environmental groups special control over the US Forest Service. His pattern is to feather his own nest and he would likely use the Forest Service to do that as he did in Colorado.

2. The U.S. Department of Agriculture (USDA) seems to be carefully tracking stimulus projects which are supporting the use of wood fiber for the production of biomass energy. However, despite receiving more than $500 million for hazardous fuels reduction projects, it appears that almost none of these projects will produce wood fiber that can be used by the traditional sawmill and paper mill industries. Please tell me how many ARRA projects have produced merchantable wood fiber? How much volume in board feet or cubic feet did those produce? Please tell me whether ARRA funds have been used to pay for the non-merchantable component of stewardship contracts, allowing the commercial component to go forward in down timber markets?

3. Recently, Secretary Vilsack announced his vision for the role of USDA in managing public and private forests. His "all landscapes" approach suggests that USDA will take an active role in matters affecting private forests, including their participation in climate change and energy policies and their role in addressing environmental services, like clean

water and air and providing wildlife habitat. Working forests are a significant part of the jurisdiction of this committee, and we want to make sure that any policies affecting working forests are developed with the full participation of private forest owners and this committee. Will you fully involve private forest owners in the development of USDA policies on working forests? Will you fully involve this committee in any policies USDA develops on working forests? Will you commit to working with the committee to explore policy opportunities together that will promote the benefits of working forests?

Mr. Avalos

1. Agricultural biotechnology is a key priority of mine. It is important that farmers across the country have access to the best technology available. Of course, we must ensure that the products are safe and the regulatory process is based on sound science. It is this need for a timely and science-based approval that concerns me. As noted by Chairman Lincoln at the hearing, the average length of time for agency decision making on petitions for regulatory approval of agricultural biotech products has steadily increased from approximately 150 days in 1996 to almost 700 days at the present time.

   Will you develop a plan to get those products deemed safe to market more quickly? Will you provide a report to the Committee within 90 days regarding the cause of the delays and how USDA plans to ensure the Department issues scientifically based regulatory decisions in a timely manner?

2. Mr. Avalos, as you know, if confirmed you will be overseeing the APHIS Biotechnology Regulatory Services. Now pending within the USDA is the publication of draft Environmental Impact Statement to determine whether Round-Up Ready Alfalfa (RRA) can be deregulated. The completion of this EIS has taken far longer than anyone anticipated and is now jeopardizing the ability of farmers to have RRA available for the 2010 planting season. Would you commit to reviewing this problem and reporting to the committee when the EIS will be finalized and published in the *Federal Register*?

3. Over the last 15 years, business practices in the livestock industry have changed dramatically. Producers and meat companies have largely turned to alternative marketing arrangements, rather than the traditional spot market for livestock. The Grain Inspection, Packers & Stockyards Administration released a Congressionally-mandated study in 2007 of marketing issues and packer ownership of livestock. This exhaustive study concluded that alternative livestock marketing agreements benefit both producers and industry. Industry concentration is also a concern for some, but the 2008 Packers & Stockyards Administration Annual Report indicates that concentration has largely led to lower prices for consumers and better income margins for producers and processors. This Committee also held a hearing on these issues in 2007. Despite previous extensive study of this issue, USDA and the Department of Justice have announced a series of Public Workshops next year to address competition and concentration issues in the agriculture sector. Given your responsibilities will include overseeing GIPSA, do you feel there are problems in the industry that GIPSA is not policing? Will you provide the Committee with a detailed description of USDA's plans for any changes in policy or operations within GIPSA or in its relationship with the Department of Justice?

4. The Animal & Plant Health Inspection Service currently has a rule pending that would allow for importation of cooked pork skins from regions affected with swine diseases. This rule was proposed after a risk assessment concluded that cooking methods were sufficient to inactivate any pathogens of concern. APHIS for decades has protected U.S. agriculture by ensuring that imports from affected countries are processed in a manner that eliminates any potential harm. APHIS issued a proposed rule on July 2, 2008, and the agency's examination of this matter dates back to 2003. This rule received very few public comments, and does not appear to have raised many issues. Will you provide an update to the Committee regarding the status of the proposed regulation and when the Department plans to release a final rule?

5. As Under Secretary, you will oversee the National Organic Program. Secretary Vilsack has expressed a new commitment to the program and to help producers who choose to raise and market organic crops and livestock. However, organic production and certification can be a costly process. Congress has addressed this with the Organic Certification Cost-Share Program, and I applaud USDA for releasing the 2009 program this week. In 2008, USDA revised its accreditation procedures for certifying agents in the National Organic Program. This revision has raised concerns with some certifying agents that their costs could increase markedly. Many of these certifying agents are non-profit and public entities, and serve smaller local organic producers who cannot afford high administrative costs. Will you work with the new leadership of the National Organic Program to develop a plan to lower administrative costs and the burden on small producers and report to the Committee on your progress?

Senator Thad Cochran
Nomination Hearing Questions
September 30, 2009

Mr. Avalos, the Department of Agriculture is working to finalize a rule allowing for the importation of cooked pork skins subject to certain processes to protect public health. When do you expect the Department to finalize this important rule? Also, do you believe the Department should follow different rules for beef and cooked pork skins when approving countries for imports? I ask that you review this issue and work to finalize the rule.

Senator Charles E. Grassley
Nominations Hearing Questions
September 30, 2009 10:00am

CFTC
Bartholomew Chilton, Commissioner of the Commodity Futures Trading Commission
Jill Sommers, Commissioner of the Commodity Futures Trading Commission
Scott O'Malia, Commissioner of the Commodity Futures Trading Commission

1) This question is just for Ms. Sommers and Mr. O'Malia. When testifying before the Agriculture Committee last year, Acting Chairman Lukken and Commissioner Chilton discussed several new initiatives to improve trade collection and dissemination efforts to bring more transparency in the areas of agriculture and energy markets. Do you think the steps taken by the CFTC in recent months go far enough to bring greater transparency and scrutiny in energy and agriculture trades? If not, what suggestions can you offer?

2) In a hearing last year in the Senate Commerce Committee, Michael Greenberger, a law professor at the University of Maryland and former head of the CFTC's Division of Trading & Markets, suggested that if the CFTC required all U.S. crude trades to be subject to CFTC regulation and trading limits, oil prices would drop by 25% overnight. At the high, the price of a barrel of oil was $147 in the summer of 2008. Now it's under $67. Did all these speculators suddenly leave the market? Why without CFTC regulation did the price actually drop to less than a 1/2 of the original price?

USDA
Edward M. Avalos, Under Secretary of Agriculture for Marketing and Regulatory Programs

1) Specifically related to Packers and Stockyards Program, how do you intend to make sure there is greater enforcement of the competition provisions of the P&S Act?

2) One of the most critical jobs within the MRP mission area is the biotechnology approval process at the Animal Plant Health Inspection Service. The U.S. is the leader in developing and using biotechnology and it should remain that way. However, over the last decade the time to deregulate these new products has slowed considerably. Will you make deregulation a priority within your mission area and can you assure me that these decisions continue to be based on science?

Farm Credit
Kenneth Albert Spearman, Member of the Farm Credit Administration Board

1) As you know many in the agriculture sector and in particular livestock producers are struggling to stay afloat. On top of the tough economic times they are facing, now it seems as if credit is also drying up. Many banks have looked at their agricultural portfolio as a liability and that in turn has added another burden to our producers. What

do you see as the role of the Farm Credit Administration in working with the farm credit system member banks to help these producers through this economically uncertain time?

QUESTIONS SUBMITTED BY SENATOR HARKIN TO HARRIS SHERMAN

1. The Food, Conservation, and Energy Act of 2008 (FCEA) reflects carefully balanced and integrated compromises. Among the most important decisions by Congress was the agreement to include some $4 billion in additional funding for conservation programs over 10 years above budget baseline levels. The policies enacted and funded in the legislation are being effectively used, for example, in the recently-announced Mississippi River Basin Initiative, which makes extensive use of funding from the Environmental Quality Incentives Program (EQIP) and authority from the Cooperative Conservation Partnership Initiative.

Do you agree that in light of the significant demands and need for conservation on agricultural land it would be unwise to cut back on the funding committed to conservation in the FCEA?

2. In recent audits by the Department of Agriculture Office of Inspector General of the Wetlands Reserve Program and the Conservation Security Program the OIG identified failure to ensure compliance with the program requirements. This problem traces back, in my view, to insufficient funding being allocated for Natural Resources Conservation Service technical assistance personnel and activities so that conservationists can carry out conservation programs, including necessary compliance checks. For instance, the number of acres enrolled in the Wetlands Reserve program has continued to increase, and therefore the cost of monitoring and enforcing WRP easements has continued to rise, but the technical assistance support funding allocated for the program has stayed relatively flat at around 5 percent of total WRP funding. Currently, WRP technical assistance cost for monitoring and enforcement are an estimated $12 an acre, but allocated funding for these activities are only around $6 an acre.

How will you ensure that sufficient funding is allocated to NRCS technical assistance personnel and activities so that conservation programs can be carried out and delivered to farmers and ranchers properly, and so that NRCS can fulfill its core responsibility to enforce the statutory regulatory requirements of programs?

QUESTIONS SUBMITTED BY SENATOR HARKIN TO EDWARD AVALOS

1. In March 2006, the Government Accountability Office issued a report laying out continuing problems with the Grain Inspection and Packers and Stockyards Administration's enforcement of the Packers and Stockyards Act and evaluating steps taken to respond to recommendations in an earlier GAO report from 2000. In particular, the report disclosed that the agency was artificially inflating its own records on taking enforcement actions against unfair trade practices, for example, by directing employees to categorize taking a phone call complaint from the public as opening an investigation, even if no further action were ever taken.

If you are confirmed as Under Secretary, will you meet with GIPSA officials having responsibility for enforcing the Packers and Stockyards Act, go over the steps have been taken to address the matters raised in the 2006 GAO report, and report back to this Committee and to me regarding your findings and your plan for remedying shortcomings in enforcement and ensuring that reforms in GIPSA's performance are not allowed to lapse?

2. There are indications that, due to high demand, the Department is more actively integrating issues and concerns relating to organic agriculture into the activities of the various agencies within USDA. A number of agencies have staff working on various aspects of organic agriculture and trade, including the recent announcement of organic equivalency standards with the government of Canada.

What can we expect to see from AMS, and from the Marketing and Regulatory Programs branch more generally, involving interagency and interdepartmental coordination to ensure that issues of concern related to organic agriculture and trade are addressed systematically and comprehensively throughout the federal government?

2. The Food, Conservation, and Energy Act of 2008 (the farm bill), includes $22 million in mandatory funding over the next five years for cost-share payments for producers to help offset the cost of organic certification fees. This was a major increase over the $5 million provided for this program in the Food Security and Rural Investment Act of 2002. Many producers contacted me to indicate their frustration with how slowly the Department moved in getting this funding out to organic farmers in the period following passage of the 2002 bill. Such delays should not be repeated in implementing the 2008 farm bill.

Can we have your assurance that you will work closely with the leadership of the National Organic Program so that cost-share funding is distributed in a timely fashion to producers?

3. In 2007, USDA solicited public comments through the Federal Register to gather recommendations as to whether the Department should proceed to develop a national marketing agreement for leafy green vegetables. USDA received over 1500 public comments, including many from smaller-scale and organic producers who were concerned about the negative impacts that such an agreement would have on their farm operations. Currently, the Agricultural Marketing Service is conducting hearing sessions throughout the United States to continue

gathering public comments on whether to develop such a marketing agreement. At the hearing session conducted in Monterey, California, testimony from members of the organic and small-scale farming community reiterated the concerns expressed during the 2007 public comment period.

Will you commit to monitor closely the results of the hearing sessions and appropriately consider and evaluate the impact that a national marketing order may have on smaller and organic producers of leafy green vegetables?

QUESTION SUBMITTED BY SENATOR HARKIN TO KENNETH SPEARMAN

Mr. Spearman, you serve as an outside board member for the AgFirst Farm Credit Bank, and this experience clearly provides you with valuable background and knowledge for serving on the board of the Farm Credit Administration (FCA). AgFirst is one of the institutions of the Farm Credit System (FCS), all of which you will be tasked with overseeing as a member of the FCA Board. To be sure, you have pledged that you will if confirmed resign from the AgFirst board and comply with the applicable conflict of interest and ethics requirements.

As a regulator you will be tasked with ensuring the safety and soundness of the FCS and also ensuring that lending by FCS institutions complies with the statutory objectives, requirements, and limitations of the Farm Credit Act of 1971, as amended. The recent turmoil in the global financial system obviously underscores the crucial importance of enforcing prudent safety and soundness standards. At the same time, as a board member of the FCA, you will have a responsibility to help facilitate FCS institutions in making affordable credit available to borrowers who are eligible under the Act.

In the light of your previous position on the board of a FCS institution, please describe carefully the approach you will take and any specific steps involved to make sure that in your new position as a member of the board of the FCA you will be truly objective, even-handed, and free of pre-determined conclusions in handling the various questions that will come before you.

Questions for Bartholomew Chilton, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission

1. In its 35-year history, the commodity futures trading commission has only successfully prosecuted one case of manipulation in the futures markets. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?

2. How will you ensure that the CFTC employs its authority to prosecute market manipulators?

Questions for Jill Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission

1. In its 35-year history, the commodity futures trading commission has only successfully prosecuted one case of manipulation in the futures markets. In a recent speech and in your testimony, you noted that the CFTC has to prove that someone "specifically intended" to manipulate prices. As a former prosecutor, I know chasing criminals isn't easy, but this standard would seem to make it even more difficult to go after criminals. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?

2. How will you ensure that the CFTC employs its authority to prosecute market manipulators?

Questions for Scott O'Malia, of Michigan, to be a Commissioner of the Commodity Futures Trading Commission

1. In its 35-year history, the commodity futures trading commission has only successfully prosecuted one case of manipulation in the futures markets. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?

2. How will you ensure that the CFTC employs its authority to prosecute market manipulators?

Questions for Edward M. Avalos to be Under Secretary of Agriculture for Marketing and Regulatory Programs and to be a Member of the Board of Directors of the Commodity Credit Corporation

1. Mr. Avalos, the Animal and Plant Health Inspection Services announced an increase in the user fees for agricultural quarantine and inspection (AQI) services on September 28, 2009 (Monday). The fee is scheduled to take effect on October 1, 2009 (Thursday). USDA has indicated this rapid (three-day) phase-in is required because fee collections have been down and layoffs of experienced employees would be necessary if the new fee were not adopted. I have heard from airlines in my state that the time and work required to change computer systems to accommodate this rapid phase-in of a new fee is not

sufficient. **As Under Secretary, what would you do to resurrect this situation or avoid this situation in the first place?**

2. Mr. Avalos, now pending within the USDA is the publication of a draft environmental impact statement to determine whether Round-Up Ready Alfalfa can be deregulated. Are you familiar with this issue and do you support biotechnology as a means of improving the productivity of the agriculture sector? Are you aware of the USDA's timeline for publishing this draft environmental impact statement and, if confirmed, would you provide that information to the committee?

Senator Pat Roberts
Committee on Agriculture, Nutrition and Forestry
Questions for the Record
September 30, 2009

Questions for Commissioners Sommers, Chilton and Mr. O'Malia:

1. What is your definition of "systemic risk?" Do you believe every OTC participant or product creates "systemic risk" to our national economy? If so why? If not, then why should Congress pass legislation that treats all participants and products as if they do create a "systemic risk" as some are suggesting?

2. This summer the Treasury Department proposed the creation of a systemic risk regulator to call for the imposition of capital requirements for participants in the OTC derivatives markets. Some view this as creating a significant barrier to entry, one that could in fact force many non-financial companies out of these markets. If the result of such a requirement was to leave only a few large market participants, wouldn't that enhance the possibility of systemic risk, rather than lessen it?

Question for Mr. Avalos:

Congress took action in the 2008 Farm Bill to reform certain aspects of the livestock industry, particularly in regards to contracts and the enforcement of the Packers and Stockyards Act. The agreements reached in the conference report were heavily scrutinized and exhaustively debated. All sides made concessions and the end result was a bill that passed by historic margins. I understand some would like the administration to ignore these agreements and implement measures that Congress either specifically voted down or chose not to include in the Farm Bill. Can you assure me that your mission area will follow the will of Congress by honoring the commitments made in the 2008 Farm Bill?

Senator Stabenow – Questions for the Record for Nominees
October 1, 2009

For Edward Avalos:

1. According to the Agriculture Appropriations bill that is working its way through the legislative process, the Appropriations Committee expresses its concern about the ever-increasing number of non-native plant pests and diseases discovered in the US. In this report language, the Committee urges APHIS to address the issue and undertake extremely careful review of requests for importation from growing regions that are home to pests and diseases that do not currently exist in the U.S., so as not to add to the current pest and disease crisis. In Michigan, pests and diseases are a huge obstacle for agriculture and threaten the viability of the industry. As Under Secretary of Marketing and Regulatory Affairs, what would you do to ensure that USDA is preventing new pests and diseases from entering the country due to agricultural importation? Are you willing to work with the Senate to prevent this ever-growing problem?

2. The current AMS commodity purchase programs face many implementation challenges. Additionally, commodities that are harvested in mid to late summer often have a disadvantage for government purchase within the current system. How do you plan to improve AMS acquisition of commodities to help deal with surpluses at times when food banks are short?

For Harris Sherman:

1. What is your understanding of the authority given to USDA by section 1245 of the Farm Bill, and how do you foresee this authority being carried out over the next several years?

2. As Congress continues to debate climate legislation, what can USDA be doing now to develop methodologies and standards for GHG emission reductions in agricultural and forestry offset projects?

3. The President has committed to and Congress is ready to pass over $400 million for Great Lakes Restoration projects. This funding will build upon the work that many Great Lakes stakeholders have been working to develop for over 5 years. Given that your position with USDA would oversee some of the largest federal conservation programs, how can USDA play a more vital role in Great Lakes restoration process?

4. Should you be confirmed, how can USDA better collaborate with EPA to ensure land management programs are more successful in the future?

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the record
Edward Avalos
September 30, 2009

Senator Blanche Lincoln

1) **Question:**

AMS: FRESH PRODUCE PROCUREMENT FOR NUTRITION PROGRAMS
The Agricultural Marketing Service (AMS) has responsibility for purchasing the food that is distributed to schools, food banks, and other institutions through USDA's nutrition and food assistance programs. Over the years, the amount of fresh produce purchased by AMS has steadily declined to the point that fresh produce represents less than 5 percent of the total value of food purchased in any given year. Recently, AMS has begun several pilot programs to purchase fresh-cut produce for distribution to schools participating in the National School Lunch Program (NSLP). Many would like to see these programs expanded in as expeditious a manner as possible.

Can we have your assurance that, if confirmed, you will work quickly to develop and implement a plan to continue the expansion of AMS's fresh-cut produce purchases?

Response:

Children having access to more fruits and vegetables in the National School Lunch program is very important for encouraging a lifetime of healthy eating. If confirmed as Under Secretary, I would want to conduct a top to bottom review of how AMS purchases food products for the National School Lunch program and figure out best strategies for increasing fruit and vegetable purchases. I would look forward to an opportunity to develop a plan and work with you to share views on this important topic.

2) **Question:**

AMS: PROCESS VERIFIED MEAT LABEL CLAIM STANDARDS
Currently, both AMS and the Food Safety and Inspection Service (FSIS) verify claims made on meat product labels. The result can be uncertainty and confusion for consumers as to what it is they are purchasing, and hardship for farmers and ranchers using alternative methods of production.

Can we have your assurance that you will work with the yet-to-be-named Under Secretary for Food Safety to develop a clear, consistent policy between AMS and FSIS to verify package-label claims with respect to animal production?

Response:

Yes. I know producers are looking for new marketing claims that can add value to their products, but also realize that such claims only have value if they can be verified. My understanding is that FSIS is required to ensure all claims associated with federally inspected meat, poultry and egg products are truthful. If confirmed, I will place a priority on having AMS assist FSIS using AMS' independently verified production activities. I look forward to working with FSIS to provide improved coordination on this issue.

3) **Question:**

APHIS: EMERGENCY PEST AND DISEASE SPENDING
For some time, Congress and the Office of Management and Budget (OMB) have been locked in a disagreement over how to spend emergency funds to fight plant pests. Congress has passed laws to direct the Secretary of Agriculture to use emergency funds when necessary to combat pest outbreaks, only to have OMB later block such spending. In the recent farm bill, Congress again made explicit that these funding decisions belong exclusively to USDA.

If confirmed, can the committee have your assurance that you will work with OMB to ensure that these funding decisions are based on the statutory direction provided in the farm bill?

Response:

I am familiar with this issue, and if given the opportunity to join the team at USDA, I will work to ensure that any future emergency funding requests to fight plant pests are well-justified. I will also work to ensure an open dialogue between the Department and OMB, so that OMB understands the Department's reasoning for making any emergency funding decisions in safeguarding American agriculture.

4) **Question:**

APHIS: LACEY ACT IMPLEMENTATION
The Lacey Act is the nation's oldest wildlife protection statute. The Act has served as a key tool to combat trafficking in illegal wildlife, fish or plants. Section 8204 of the Food, Conservation and Energy Act of 2008 expands Lacey Act protections to a

broader range of plants that are illegally taken with a few exceptions. Excluded from coverage are "common cultivars", except trees, and "common food crops". APHIS has been working to define these two terms for over a year. It's important that APHIS quickly define these terms to help provide clarity for many stakeholders.

Can I have your assurance that you will work with the Animal and Plant Health Inspection Service (APHIS) to provide a definition for these terms as quickly as possible?

Response:

This is a new issue for me. While I have not been briefed by the USDA experts on this issue in great detail, I can commit to you that, if confirmed, I will work with the appropriate officials at USDA to gain a full understanding and appraisal of this issue. Certainly, implementing these new provisions and defining appropriate requirements is important. If confirmed, I will ensure that APHIS communicates with stakeholders and makes defining the terms you mention a priority to help bring resolution to this issue as soon as possible.

5) **Question:**

The current Administration and USDA have made Global Food and Energy Security two of their top priorities for American agriculture to play a key role in. Secretary Vilsack has highlighted the role of technology in meeting those goals. Biotechnology, because it allows producers to produce more with less, is one technology that is key in my mind, especially in helping to meet the global population demand for safe food products. Would you agree?

In order for producers and consumers to realize the benefits of agricultural biotechnology, it is essential that USDA implement a timely and science-based approval process for the innovative biotech products waiting to be approved.

It is my understanding that currently the average length of time for agency decision making on petitions for regulatory approval of agricultural of agricultural biotech products has steadily increased from approximately 150 days in 1996 to almost 700 days at present.

This trend is problematic and recent developments with regard to two specific crops have been brought to my attention.

Two and a half years ago, a Federal Court ruled that USDA should have conducted an Environmental Impact Statement before deregulating Roundup Ready alfalfa. Farmers lost the ability to plant biotech alfalfa until USDA completed what APHIS predicted to be a two-year EIS process.

Given the economic crisis that dairy farmers face and the importance of high-quality alfalfa to milk production, it is important USDA make this a priority. The same court just ruled that USDA needs to do an EIS for biotech sugarbeets. It would be logical to conclude more EIS reviews of biotech crops are in USDA's future.

In the near term, what is USDA going to do to complete the overdue EIS for Roundup Ready alfalfa? Is there a commitment of priority and resources to complete the sugarbeet EIS in a more timely way? And in the long-term, how will USDA ensure timely completion of future Environment Impact Studies so that the U.S. regulatory process does not go from being the gold standard of the world to a barrier for much needed innovation?

Finally, how can this Committee be helpful in assuring that USDA has and is utilizing the necessary resources to process science base approvals of ag biotech products in a timely fashion?

Response:

I agree that the advances in plant biotechnology over the past several years have brought significant benefits to producers and our food security. Drought resistant varieties and yield-enhancing traits have the potential to significantly increase our production of food, feed, fiber, and fuel.

I appreciate your concern about the length of time it currently takes USDA to make a determination on petitions for biotechnology products. With advances in technology, however, comes increased responsibility by USDA to ensure sound decision-making with regard to field testing and deregulating the products of biotechnology. I understand that there is a regulatory framework in place for a reason, to ensure that these types of products are being introduced into the marketplace in an orderly and safe fashion. I believe that environmental impact statements should be very thorough and scientifically robust documents. I also understand that it takes significant resources and time to comply with environmental regulations like the National Environmental Protection Act (NEPA). I assure you that if confirmed, I will examine USDA's regulatory approval process for biotechnology products, particularly the length of time to approve those products, and where and when possible, examine ways to address this issue.

The two court rulings on Roundup Ready alfalfa and sugar beets are also concerning to me, especially because they inject uncertainty into farmers' operations. If confirmed, I look forward to being briefed on these issues and working with the Committee to address the concerns you have raised.

<u>Senator Saxby Chambliss</u>

1) **Question:**

Agricultural biotechnology is a key priority of mine. It is important that farmers across the country have access to the best technology available. Of course, we must ensure that the products are safe and the regulatory process is based on sound science. It is this need for a timely and science-based approval that concerns me. As noted by Chairman Lincoln at the hearing, the average length of time for agency decision making on petitions for regulatory approval of agricultural biotech products has steadily increased from approximately 150 days in 1996 to almost 700 days at the present time.

Will you develop a plan to get those products deemed safe to market more quickly? Will you provide a report to the Committee within 90 days regarding the cause of the delays and how USDA plans to ensure the Department issues scientifically based regulatory decisions in a timely manner?

Response:

This is an issue that is important to me and it is important to the USDA. Advances in plant biotechnology over the past several years have brought significant benefits to producers and our food security. Drought resistant varieties and yield enhancing traits have the potential to significantly increase our production of food, feed, fiber, and fuel. If confirmed, I plan to examine USDA's regulatory approval process for biotechnology products, determine why the length of time to approve those products that are deemed safe is increasing, and examine ways to address this issue. I would be pleased to report my findings to the Committee, as requested.

2) **Question:**

Mr. Avalos, as you know, if confirmed you will be overseeing the APHIS Biotechnology Regulatory Services. Now pending within the USDA is the publication of draft Environmental Impact Statement to determine whether Round-Up Ready Alfalfa (RRA) can be deregulated. The completion of this EIS has taken far longer than anyone anticipated and is now jeopardizing the ability of farmers to have RRA available for the 2010 planting season. Would you commit to reviewing this problem and reporting to the committee when the EIS will be finalized and published in the *Federal Register*?

Response:

I appreciate your concern about the timeline for determining whether RRA can be deregulated. At the same time, I understand that there is a regulatory framework in

place to ensure that these types of products are being introduced into the marketplace in an orderly and safe fashion. I believe that environmental impact statements should be very thorough and scientifically robust documents. I also understand that it takes significant resources to comply with environmental regulations like the National Environmental Protection Act (NEPA). If confirmed, I look forward to giving this matter my attention and reporting to the Committee my findings.

3) **Question:**

Over the last 15 years, business practices in the livestock industry have changed dramatically. Producers and meat companies have largely turned to alternative marketing arrangements, rather than the traditional spot market for livestock. The Grain Inspection, Packers & Stockyards Administration released a Congressionally-mandated study in 2007 of marketing issues and packer ownership of livestock. This exhaustive study concluded that alternative livestock marketing agreements benefit both producers and industry. Industry concentration is also a concern for some, but the 2008 Packers & Stockyards Administration Annual Report indicates that concentration has largely led to lower prices for consumers and better income margins for producers and processors. This Committee also held a hearing on these issues in 2007. Despite previous extensive study of this issue, USDA and the Department of Justice have announced a series of Public Workshops next year to address competition and concentration issues in the agriculture sector. Given your responsibilities will include overseeing GIPSA, do you feel there are problems in the industry that GIPSA is not policing? Will you provide the Committee with a detailed description of USDA's plans for any changes in policy or operations within GIPSA or in its relationship with the Department of Justice?

Response:

A fair and competitive marketplace for livestock and poultry is important to me and I want to ensure the Packers and Stockyards Act is fully enforced. I will work with the Grain Inspection, Packers and Stockyards Administration (GIPSA) to ensure it is structured and staffed in the most appropriate way to handle competition investigations. I also want to do a review of the existing regulations to ensure they are current for today's marketplace.

I understand that changes made to the Packers and Stockyards Act in the 2008 Farm Bill to address concerns by producers and growers relating to fairness in the marketplace, specifically relating to contracts. If confirmed, I will work to move these rules along as quickly as possible and will keep you updated on this process.

I am also aware of the proposed joint workshops next year by USDA and the Department of Justice. Although I am not aware of any specific outcomes of these workshops at this time, I do think they will provide a valuable dialogue with

producers, consumers, retailers, packers and others in the industry on issues relating to competition and concentration in the marketplace.

4) **Question:**

The Animal & Plant Health Inspection Service currently has a rule pending that would allow for importation of cooked pork skins from regions affected with swine diseases. This rule was proposed after a risk assessment concluded that cooking methods were sufficient to inactivate any pathogens of concern. APHIS for decades has protected U.S. agriculture by ensuring that imports from affected countries are processed in a manner that eliminates any potential harm. APHIS issued a proposed rule on July 2, 2008, and the agency's examination of this matter dates back to 2003. This rule received very few public comments, and does not appear to have raised many issues. Will you provide an update to the Committee regarding the status of the proposed regulation and when the Department plans to release a final rule?

Response:

Although I do not know when the Department plans to finalize the rule on cooked pork skins, if confirmed, I will certainly look into this upon my arrival at USDA and see where the rule is in the process and work to move it along. I understand that the Department may receive many requests in any given year for different types of animal products to be let into the country, and that these products can be treated or handled in a variety of ways to mitigate potential disease risks. If confirmed, I would like to have an opportunity to assess and review the process that is used for prioritizing these types of commodity import requests and determine if changes should be recommended.

5) **Question:**

As Under Secretary, you will oversee the National Organic Program. Secretary Vilsack has expressed a new commitment to the program and to help producers who choose to raise and market organic crops and livestock. However, organic production and certification can be a costly process. Congress has addressed this with the Organic Certification Cost-Share Program, and I applaud USDA for releasing the 2009 program this week. In 2008, USDA revised its accreditation procedures for certifying agents in the National Organic Program. This revision has raised concerns with some certifying agents that their costs could increase markedly. Many of these certifying agents are non-profit and public entities, and serve smaller local organic producers who cannot afford high administrative costs. Will you work with the new leadership of the National Organic Program to develop a plan to lower administrative costs and the burden on small producers and report to the Committee on your progress?

Response:

Yes. Given my experiences in New Mexico and the shared experiences of the people I have worked with in that state, I can understand the concerns you raise regarding costs and its impacts on the bottom line. If confirmed, I would like to review how these costs are administered and develop strategies that could lower the overall cost. As a prospective leader and member of the USDA Subcabinet, I believe that through dialogue and thorough listening that even better solutions can be found. For example, there may be new ideas that have yet to be explored. I would be happy to report my progress to you.

Senator Tom Harkin

1) **Question:**

Question one In March 2006, the Government Accountability Office issued a report laying out continuing problems with the Grain Inspection and Packers and Stockyards Administration's enforcement of the Packers and Stockyards Act and evaluating steps taken to respond to recommendations in an earlier GAO report from 2000. In particular, the report disclosed that the agency was artificially inflating its own records on taking enforcement actions against unfair trade practices, for example, by directing employees to categorize taking a phone call complaint from the public as opening an investigation, even if no further action were ever taken.

If you are confirmed as Under Secretary, will you meet with GIPSA officials having responsibility for enforcing the Packers and Stockyards Act, go over the steps have been taken to address the matters raised in the 2006 GAO report, and report back to this Committee and to me regarding your findings and your plan for remedying shortcomings in enforcement and ensuring that reforms in GIPSA's performance are not allowed to lapse?

Response:

Yes. A fair and competitive marketplace for livestock and poultry is important to me and I want to ensure the Packers and Stockyards Act is fully enforced. I will work with the Grain Inspection, Packers and Stockyards Administration (GIPSA) to ensure it is structured and staffed in the most appropriate way to handle competition investigations. I also want to do a review of the existing regulations to ensure they are current for today's marketplace. I will also review the audits conducted by both GAO and USDA's Office of Inspector General to ensure the recommendations have been properly implemented. I will report to you and the Committee GIPSA's

progress in improving its enforcement activities as outlined by both GAO and Office of Inspector General.

I am aware of the changes made to the Packers and Stockyards Act in the 2008 farm bill to address concerns by producers and growers relating to fairness in the marketplace, specifically relating to contracts. I will work to move these rules along as quickly as possible and will keep you updated on this process as well.

2) **Question:**

There are indications that, due to high demand, the Department is more actively integrating issues and concerns relating to organic agriculture into the activities of the various agencies within USDA. A number of agencies have staff working on various aspects of organic agriculture and trade, including the recent announcement of organic equivalency standards with the government of Canada.

What can we expect to see from AMS, and from the Marketing and Regulatory Programs branch more generally, involving interagency and interdepartmental coordination to ensure that issues of concern related to organic agriculture and trade are addressed systematically and comprehensively throughout the federal government?

Response:

From my perspective, the 2008 Farm Bill provided needed resources and new provisions to carry out critical activities to support organic agriculture. I am committed to ensuring there is a structured process to coordinate activities within the Department on organic agriculture to make the most of these critical investments. I know the Department has already taken a number of steps to build a more cohesive structure for coordinating organic activities, and I want to help further facilitate those actions. If confirmed, I look forward to working with you on these issues in the future and value your input for helping identify new ways to strengthen organic agriculture issues at the Department.

3) **Question:**

The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), includes $22 million in mandatory funding over the next five years for cost-share payments for producers to help offset the cost of organic certification fees. This was a major increase over the $5 million provided for this program in the Food Security and Rural Investment Act of 2002. Many producers contacted me to indicate their frustration with how slowly the Department moved in getting this funding out to organic farmers

in the period following passage of the 2002 bill. Such delays should not be repeated in implementing the 2008 farm bill.

Can we have your assurance that you will work closely with the leadership of the National Organic Program so that cost-share funding is distributed in a timely fashion to producers?

Response:

From firsthand experiences in my home state of New Mexico, I can appreciate frustration people have when it is perceived the government is not moving quickly enough. I also know how important this program is for organic producers and handlers. As Under Secretary, I will review the process that is used in getting these funds out the door to ensure it is as expedient and efficient as possible for funds allocated from the 2008 farm bill.

It is also my understanding that funding for fiscal year 2010 was announced on September 30 so funds should be available to producers and handlers soon. If confirmed, I welcome the chance to dig deeper into this issue and help facilitate solutions that work for everyone.

4) **Question:**

In 2007, USDA solicited public comments through the Federal Register to gather recommendations as to whether the Department should proceed to develop a national marketing agreement for leafy green vegetables. USDA received over 1500 public comments, including many from smaller-scale and organic producers who were concerned about the negative impacts that such an agreement would have on their farm operations. Currently, the Agricultural Marketing Service is conducting hearing sessions throughout the United States to continue gathering public comments on whether to develop such a marketing agreement. At the hearing session conducted in Monterey, California, testimony from members of the organic and small-scale farming community reiterated the concerns expressed during the 2007 public comment period.

Will you commit to monitor closely the results of the hearing sessions and appropriately consider and evaluate the impact that a national marketing order may have on smaller and organic producers of leafy green vegetables?

Response:

Yes. If confirmed, I will monitor how the hearings are going and will carefully review the results as well with particular attention to any potential impact of an agreement on small and organic producers.

Senator Debbie Stabenow

1) **Question:**

According to the Agriculture Appropriations bill that is working its way through the legislative process, the Appropriations Committee expresses its concern about the ever-increasing number of non-native plant pests and diseases discovered in the US. In this report language, the Committee urges APHIS to address the issue and undertake extremely careful review of requests for importation from growing regions that are home to pests and diseases that do not currently exist in the U.S., so as not to add to the current pest and disease crisis. In Michigan, pests and diseases are a huge obstacle for agriculture and threaten the viability of the industry. As Under Secretary of Marketing and Regulatory Affairs, what would you do to ensure that USDA is preventing new pests and diseases from entering the country due to agricultural importation? Are you willing to work with the Senate to prevent this ever-growing problem?

Response:

Invasive pests are one of the greatest threats to agriculture and our environment today and I appreciate that we share the same concern. To address these threats, the United States needs a comprehensive approach. We must use the best and most up-to-date science to evaluate all potential risk and make informed decisions about whether to allow the entry of commodities from specific regions of the world. The approach also needs to involve stringent port-of-entry inspections, coordinated domestic surveillance efforts, and increased public awareness. If confirmed, I will urge vigilance at home and abroad and enhanced coordination with all of those involved in federal, state, local, international, and non-governmental organizations. I would like to have an opportunity to work further with you on this.

2) **Question:**

The current AMS commodity purchase programs face many implementation challenges. Additionally, commodities that are harvested in mid to late summer often have a disadvantage for government purchase within the current system. How do you plan to improve AMS acquisition of commodities to help deal with surpluses at times when food banks are short?

Response:

My understanding is that there are reduced funding levels for surplus purchases. I also know that many sectors in agriculture have faced severe economic trying times and are in need of support such as through surplus removals. If confirmed, I will work with AMS to develop a purchasing plan that addresses both the economic condition of the market and the needs of recipients.

Senator Amy Klobuchar

1) **Question:**

Mr. Avalos, the Animal and Plant Health Inspection Services announced an increase in the user fees for agricultural quarantine and inspection (AQI) services on September 28, 2009 (Monday). The fee is scheduled to take effect on October 1, 2009 (Thursday). USDA has indicated this rapid (three-day) phase-in is required because fee collections have been down and layoffs of experienced employees would be necessary if the new fee were not adopted. I have heard from airlines in my state that the time and work required to change computer systems to accommodate this rapid phase-in of a new fee is not sufficient. **As Under Secretary, what would you do to resurrect this situation or avoid this situation in the first place?**

Response:

I certainly appreciate the airline industry's concerns about the timeframe for implementation, and understand that APHIS has extended the implementation date by 30 days, to November 1, to provide the industry with additional time. If I am confirmed, I assure you that I will place a premium on timely and comprehensive communications and will work to ensure that my mission area provides as much notice as possible to stakeholders before implementing any future regulatory changes.

2) **Question:**

Mr. Avalos, now pending within the USDA is the publication of a draft environmental impact statement to determine whether Round-Up Ready Alfalfa can be deregulated. Are you familiar with this issue and do you support biotechnology as a means of improving the productivity of the agriculture sector? Are you aware of the USDA's timeline for publishing this draft environmental impact statement and, if confirmed, would you provide that information to the committee?

Response:

I currently do not know when the draft environmental impact statement will be published. I do, however, look forward to being briefed on it and updating the Committee accordingly. I understand that there is a regulatory framework in place to ensure that these types of products are being introduced into the marketplace in an orderly and safe fashion. I believe that environmental impact statements should be very thorough and scientifically grounded. I also understand that it takes significant resources to comply with environmental regulations like the National Environmental Protection Act (NEPA).

Senator Pat Roberts

1) **Question:**

Congress took action in the 2008 Farm Bill to reform certain aspects of the livestock industry, particularly in regards to contracts and the enforcement of the Packers and Stockyards Act. The agreements reached in the conference report were heavily scrutinized and exhaustively debated. All sides made concessions and the end result was a bill that passed by historic margins. I understand some would like the administration to ignore these agreements and implement measures that Congress either specifically voted down or chose not to include in the Farm Bill. Can you assure me that your mission area will follow the will of Congress by honoring the commitments made in the 2008 Farm Bill?

Response:

I am aware of the changes made to the Packers and Stockyards Act in the 2008 farm bill to address concerns by producers and growers relating to fairness in the marketplace, specifically relating to contracts. If confirmed, I will work to advance these rules as expeditiously as possible and will keep you updated on this process as GIPSA works to carry out the requirements set by Congress. I will also seek your input when the rules are published.

I appreciate that issues relating to the marketplace and enforcement issues can be very complex and require needed dialogue across all sectors of the industry. I know that there can be strong views on both sides with these issues and I want to have the benefit of learning as much as I can from all perspectives.

Senator Thad Cochran

1) **Question:**

Mr. Avalos, the Department of Agriculture is working to finalize a rule allowing for the importation of cooked pork skins subject to certain processes to protect public health. When do you expect the Department to finalize this important rule? Also, do you believe the Department should follow different rules for beef and cooked pork skins when approving countries for imports? I ask that you review this issue and work to finalize the rule.

Response:

Although I do not know when the Department plans to finalize the rule on cooked pork skins, if confirmed, I will certainly look into this upon my arrival at USDA and see where the rule is in the process and work to move it along. I understand that the Department may receive many requests in any given year for different types of animal products to be let into the country, and that these products can be treated or handled in a variety of ways to mitigate potential disease risks. If confirmed, I would like to have am opportunity to assess and review the process that is used for prioritizing these types of commodity import requests and determine if changes should be recommended.

Senator Charles Grassley

1) **Question:**

Specifically related to Packers and Stockyards Program, how do you intend to make sure there is greater enforcement of the competition provisions of the P&S Act?

Response:

A fair and competitive marketplace for livestock and poultry is important to me and I want to ensure the Packers and Stockyards Act is fully enforced. If confirmed, I will work with the Grain Inspection, Packers and Stockyards Administration (GIPSA) to ensure it is structured and staffed in the most appropriate way to handle competition investigations. I also want to do a review of the existing regulations to ensure they are current for today's marketplace.

I am also aware that USDA is undertaking rules to carry out the farm bill's Livestock Title, and I will work to move them along as quickly as possible.

2) **Question:**

One of the most critical jobs within the MRP mission area is the biotechnology approval process at the Animal Plant Health Inspection Service. The U.S. is the leader in developing and using biotechnology and it should remain that way. However, over the last decade the time to deregulate these new products has slowed considerably. Will you make deregulation a priority within your mission area and can you assure me that these decisions continue to be based on science?

Response:

Advances over the years for plant biotech have brought significant benefits to producers and our food security. If confirmed, one of my top priorities as Under Secretary would be to support and uphold a science-based regulatory process and to also ensure that our regulatory process is robust enough to address the evolving nature of biotechnology.

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the Record
Commissioner Bart Chilton
September 30, 2009

Chair Blanche Lincoln

1) Question one. On June 3, 2008, the CFTC announced that the Division of Enforcement was conducting an investigation of the February/March 2008 price run-up in the cotton futures contract. The Commission took the extraordinary step of announcing an ongoing investigation because of the concerns expressed by market participants at the April 2008 agricultural forum. The American Cotton Producers of the National Cotton Council told the CFTC forum that the cotton futures market was totally dysfunctional and that cotton producers were unable to hedge their price exposure and that their concerns extended to cotton buyers with whom growers had contracted new crop sales. It has now been nineteen months since the cotton market disruption. Can you provide this Committee with any additional information about the investigation or let us know when we might expect to see the official report of the investigation?

You are correct that the cotton markets became dysfunctional and that cotton producers were unable to hedge their price exposure and that their concerns extended to cotton buyers with whom growers had contracted new crop sales. I requested an investigation (which had not begun) on this matter because of those very concerns. The Commission would be pleased to provide you with a comprehensive confidential briefing at your convenience on this matter. In addition, I have urged that this report be made public as soon as possible and that all aspect of the report that can be made public are available to ensure optimum transparency. It is my hope and expectation that the Commission will be able to make its findings public in the near future.

Senator Max Baucus

1) **Question one. Under a cap-and-trade system for carbon emissions, markets for trading of carbon allowances and carbon allowance derivatives are expected to develop. If the CFTC is granted oversight authority over such markets, please provide how the CFTC would ensure the following: (1) the markets are transparent; (2) the markets are free from abuse and unfair manipulation; and (3) the markets have sufficient liquidity.**

Should the Commission is be given authority over carbon market trading, we will use our full authority to ensure transparency and accountability. This would include our complete enforcement and surveillance authorities such as large trader reporting and all other oversight authorities that are currently applicable to exchange trading of derivatives. In

addition, I believe it is important to ensure that there is a seamless market for all transactions and that can be best achieved through a single agency regulation of both the derivative and cash markets. Furthermore, I support ensuring that all significant trades related to these markets are done so in a regulated fashion and that any over-the-counter (OTC) trading is minimal and does not have the prospect of influencing the regulated price discovery process. Finally, by ensuring safe, sound, secure and transparent markets, derivatives industry participants will help create deep and liquid markets.

Senator Pat Roberts

1) **Question one. What is your definition of "systemic risk?" Do you believe every OTC participant or product creates "systemic risk" to our national economy? If so why? If not, then why should Congress pass legislation that treats all participants and products as if they do create a "systemic risk" as some are suggesting?**

Section 3 of the Commodity Exchange Act charges the Commission with protecting against systemic risk, that is, financial system risk ensuing from transactions, series of transactions or events that have ripple effects across the broader economy. Certainly, every OTC product or participant does not present systemic risk to the financial market system, nor do I believe that the Administration's proposal regarding OTC regulatory reform treats them as such. The proposal's two-tiered approach--to bring more consistent oversight to standardized OTC products and to enhance prudential requirements for dealers in non-standardized products--is, I believe, a tailored approach to addressing potential risks to the financial system in order to avoid another financial market crisis

2) **Question two. This summer the Treasury Department proposed the creation of a systemic risk regulator to call for the imposition of capital requirements for participants in the OTC derivatives markets. Some view this as creating a significant barrier to entry, one that could in fact force many non-financial companies out of these markets. If the result of such a requirement was to leave only a few large market participants, wouldn't that enhance the possibility of systemic risk, rather than lessen it?**

With regard to the creation of a systemic risk regulator, I believe that this is a response to finding an single entity that can see aggregate risks common to financial market participants in various market sectors, the intent of which is, again, to lessen risks to the financial market system. I do not believe that the development of such an oversight system would have the perverse effect of creating barriers to entry and therefore increasing systemic risks.

Senator Charles E. Grassley

1) **Question one. When testifying before the Agriculture Committee last year, Acting Chairman Lukken and Commissioner Chilton discussed several new initiatives to improve trade collection and dissemination efforts to bring more**

transparency in the areas of agriculture and energy markets. Do you think the steps taken by the CFTC in recent months go far enough to bring greater transparency and scrutiny in energy and agriculture trades? If not, what suggestions can you offer?

The Commission, under the leadership of Chairman Gensler, had made significant improvements in enhancing transparency in energy and agricultural markets, including enhancements to commitment of trader reports and index trading reports, and we've also moved forward in the areas of consideration of position limits and hedging exemptions in finite commodity markets. As to the latter issues, I believe it is important that, at the same time the Commission considers how to impose reasonable and rational speculative position limits in finite commodities, we should be mindful of the OTC regulatory reform efforts currently under consideration by Congress, to ensure that our efforts at the CFTC do not have perverse consequences of moving currently regulated markets into what are now opaque venues. I am by no means advocating that the Commission wait for Congress to act; I am, however, noting that the Commission should ensure it take this dual track of regulatory and legislative efforts into consideration as it moves forwards in consideration of establishment of position limits.

2) **In a hearing last year in the Senate Commerce Committee, Michael Greenberger, a law professor at the University of Maryland and former head of the CFTC's Division of Trading & Markets, suggested that if the CFTC required all U.S. crude trades to be subject to CFTC regulation and trading limits, oil prices would drop by 25% overnight. At the high, the price of a barrel of oil was $147 in the summer of 2008. Now it's under $67. Did all these speculators suddenly leave the market? Why without CFTC regulation did the price actually drop to less than a 1/2 of the original price?**

Crude oil prices reached their apogee in July 2008, and as you correctly point out, there was a great deal of discussion at that time in Congressional hearings, at the Commission, and in the media as to whether speculative position limits should be imposed. It appears that, at least in part, these discussions--indicating to some that there was a possibility of legislative or regulatory action to limit speculative activity--did have some effect on trader activity, resulting in reduction of speculative long positions. While this certainly does not account for all of the decrease in crude oil prices since the highs of summer 2008, it appears that it had some effect. As I've said, I do not believe that speculators are "price drivers," only that their presence in the markets can have some price effects. Moreover, I believe that appropriate speculative trading is a necessary component to deep, liquid, properly functioning future markets.

Senator Amy Klobuchar

1) **Question one. In its 35-year history, the Commodity Futures Trading Commission has only successfully prosecuted one case of manipulation in the futures markets. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?**

Thank you for the question, a recent federal court case in Texas exemplifies the need to amend our manipulation standard. In 2007, the CFTC settled the BP manipulation case for an unprecedented amount of $303 million—the largest settlement in the history of the CFTC. The Department of Justice (DOJ) followed that case by bringing a criminal case against four of the participants in the scheme. Two weeks ago, the Texas judge in that case had to throw out the manipulation charge against those four, because (although he made it clear he didn't condone their behavior) he said that, in essence, the CFTC manipulation standard simply could not be met.

When comparing the CFTC's manipulation standard with that of the SEC, the SEC has a much easier legal hurdle to clear. The Federal Energy Regulatory Commission (FERC) and the Federal Trade Commission (FTC) have standards similar to the SEC's its "10b-5 rule" --which is their manipulation standard. To be more precise, under applicable case law the CFTC is required to prove "specific intent" to manipulate. That is a very difficult standard to reach, not to mention that it leaves a lot of space for mischief that is clearly prohibited by the Act, yet not categorically outlawed. In addition, our case law requires that we prove an artificial price exists, that the defendant had market power to move the price, and the he or she actually did cause the artificial price. Particularly in today's complex markets, proving "artificial price" can be a daunting task, which more often than not comes down to a "battle of the experts" in court. Because these requirements are so onerous, we often end up moving to a less significant charge of "attempted manipulation," which requires only proving intent and some act showing that intent. This is still a high standard, but is much easier than proving up a full manipulation case. I'm not saying that the answer is wholesale adoption of the SEC manipulation standard, but clearly, as Senator Cantwell and others have recently noted, we need to do something different at the CFTC. The status quo simply isn't good enough.

2) **Question two. How will you ensure that the CFTC employs its authority to prosecute market manipulators?**

Given current law, (with very rare exceptions) it is an inefficient and in effective use of time and taxpayer dollars to prosecute financial crimes under our manipulation standard. With a new, more appropriate standard, we can prosecute and actually deter more manipulation events. I will note, however, that while we have a difficult time prosecuting manipulation cases, we are very good at prosecuting attempted manipulation cases and other violations of the CEA. In fact, I our enforcement division is superb. At any one time, for example, we are investigating anywhere from 750 to 1,000 individuals or entities. We are one of the few government agencies who can say that the amount that we assess in fines and penalties could actually pay for our annual budget.

Senator Maria Cantwell

1) **Question one. Do you believe that speculation in commodity futures markets -- trading or investing in commodities by persons who do not produce or use the**

commodity in order to profit from commodity price changes -- can affect the price of commodity futures? Do you believe that speculation in futures markets affects the actual cash price of a commodity?

Yes, I believe that the trading strategies of "non-traditional speculators"—those entities who take long, passive positions in the futures market and keep them indefinitely--can affect futures market prices, and that this price effect in the futures market can result in price changes in the cash commodity markets.

2) **Question two. On August 11, the Department of the Treasury submitted to Congress its legislative proposal to regulate the over-the-counter (OTC) derivatives markets. While this proposal is a very important step, there are many areas where the proposal can be strengthened and tightened to fully protect our economy and prevent another financial crisis. On August 17, 2009, CFTC Chairman Gensler sent a letter to the Senate Agriculture Committee recommending specific important changes and additions to the Department of Treasury's legislative proposal. Do you support the Department of Treasury's OTC legislative proposal? In addition, do you support each recommendation included in Chairman Gensler's August 17, 2009, letter to the Senate Agriculture Committee to improve the Department of Treasury's OTC legislative proposal?**

Yes, I fully support the Administration's proposal to bring needed transparency and federal oversight to the currently unregulated OTC markets. I am supportive of Chairman Gensler's additional recommendations included in his August 17, 2009 letter to Chairman Harkin and Ranking Member Chambliss, and I believe they highlight the need to address issues in the OTC provisions of the Administration's proposal, particularly the foreign exchange swap issue, the appropriate definition of "standardized" swaps, and dual regulation of "mixed swaps."

3) **Question three. The CFTC has the authority to establish position limits to prevent traders from acquiring large positions that could be used to manipulate the price of commodities traded on futures exchanges and to prevent price distortions at contract expiration. To protect against excessive speculation, the CFTC sets position limits on some agricultural commodities, but does not do so for energy products such as oil futures. In late July and early August, the CFTC held hearings to address the current application of and exemptions from position limits in energy markets. Do you support Commission-set position limits in energy commodities to ensure that excessive levels of speculation, even in the absence of manipulation, are not causing "sudden or unreasonable fluctuations or unwarranted changes" in the prices of commodities?**

Yes, I believe that the Commission should address imposition of position limits in appropriate circumstances in finite commodities such as energies as metals. These limits have worked well in the agricultural arena for decades, and I believe that Commission-set

federal limits could bring needed oversight to other finite commodities that are critical to the American economy. I believe it is important that, at the same time the Commission considers how to impose reasonable and rational speculative position limits in finite commodities, we should be mindful of the OTC regulatory reform efforts currently under consideration by Congress, to ensure that our efforts at the CFTC do not have perverse consequences of moving currently regulated markets into what are now opaque venues. I am by no means advocating that the Commission wait for Congress to act; I am, however, noting that the Commission should ensure it take this dual track of regulatory and legislative efforts into consideration as it moves forwards in consideration of establishment of position limits.

4) **Question four. The CFTC has the authority to exempt the application of speculative position limits for bona fide hedging purposes as defined by the CFTC. Currently, bona fide hedging includes transactions to hedge against exposure a scope of financial activity with no connection to the underlying physical commodity or cash markets. These non-traditional hedges are being used to manage financial risk where transactions have nothing to do with managing commercial risk, allowing speculators seeking to gain price exposure in commodity markets. Since 1991, when the CFTC granted its first bona fide hedge exemption for a non-commercial hedging transaction, the use of swaps by various market participants to hedge price risk has grown substantially. On March 24, 2009, the CFTC published a concept release on eliminating the bona fide hedge exemption for swap dealers. The recommendation was part of the September 2008 "Staff Report on Commodity Swap Dealers and Index Traders with Commission Recommendations" prepared as a result of Commission special calls for information from swap dealers and index traders issued in June and July 2008. Do you support eliminating the bona fide hedge exemption for non-commercial transactions?**

Yes, if it is done properly. I believe we need to both address the issue of position limits and at the same time review the important issue of addressing our current bona fide hedge exemption definition. Moving forward on the former with no consideration of the latter could make our efforts ineffective and not achieve the objectives that we are instructed to pursue under the Commodity Exchange Act.

5) **Question five. The CFTC is underfunded in terms of both budget and staff. Today, the staff numbers approximately 490, a decline of nearly 20% from earlier in the decade. During this time, markets have grown exponentially, and the issues the CFTC faces have increased in complexity. For many years, the President's budget has recommended that Congress impose a user fee on commodity market participants to fund part of the CFTC's activities. The CFTC is currently the only major U.S. financial regulator that is not at least partially funded through user fees. Do you support the imposition of user fees to fund CFTC activities?**

I support consideration of all appropriate efforts to provide the agency with adequate funding to oversee regulated exchanges and market participants. I believe there is a public interest in ensuring that these markets operate efficiently and effectively and therefore believe that tax dollars should be used for needed increases in our regulatory efforts. That said, the most important thing to me is gaining the needed resources.

6) **Question six. Current law makes it very difficult for the CFTC to effectively meet its mandate to enforce and deter market manipulation. This is because the CFTC must meet a more rigorous standard to prove market manipulation than other financial market regulatory agencies such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission. The CFTC is currently the only major U.S. financial regulator that must prove "specific intent" to do harm, a much more difficult standard to prove than the "recklessness" standard employed by the SEC, FERC, and FTC. As a result, federal courts have recognized that, with the CFTC's weaker anti-manipulation standard, market "manipulation cases generally have not fared well." In fact, the standard is so weak that in the CFTC's 35-year history, it has only successfully prosecuted and won one single case of manipulation. If the CFTC were granted authority to prosecute manipulation cases under the "recklessness" standard instead of the current "specific intent" standard, how would this improve the Commission's ability to prevent, deter, and enforce market manipulation? Do you support legislation to lower the burden of proof the CFTC must meet in proving manipulation cases?**

I believe that a legislative change to provide the Commission with an "easier to prove" manipulation standard is critically important, and I thank you for your leadership on this important issue. As you correctly note, the current standard simply is ineffective in allowing the agency to detect, deter, and prosecute manipulation in America's commodity markets. This is not due to a lack of expertise or effort on the part of our enforcement staff; on the contrary, they do an excellent job, but their hands are tied by the almost impossibly high legal standard developed under manipulation case law. This is evidenced by a recent federal court case in Texas, a DOJ follow-on to CFTC's $303 million BP civil manipulation settlement in 2007, in which the district court judge noted that, while he didn't condone the conduct of the four defendants involved in the scheme, he could not find them guilty of manipulation under the onerous commodities manipulation standard. A change such as your suggest would improve our ability to carry out the mission of the Commodity Exchange Act. We need a change in our law, and I fully and strongly support a legislative change to make that happen.

7) **Question seven. On September 10, 2009, the CFTC Global Markets Advisory Committee (GMAC) announced it would convene a meeting to examine, among other issues, the "Treasury Proposal to Regulate OTC Derivatives" and "CFTC Legislative Language" as it relates to this proposal. In reviewing GMAC membership as posted on the Commission's website, it appears that the committee's membership is comprised of representatives from the various U.S. exchanges, self-regulatory organizations and the financial services industry.**

While the GMAC's charter requires representation of U.S. and foreign exchanges and market participants, it also requires "end users most directly involved in and affected by market globalization." Without end user and consumer participation, the committee may also not be "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act. Before any future meeting of the GMAC is scheduled, will you commit to broadening its membership to include end users most directly involved in and affected by market globalization to ensure "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act?

The GMAC may hold a meeting at the discretion of the Chair, Commissioner Sommers; at this point, no firm date has been set for a meeting. With regard to future meetings of all agency advisory committees, I have in the past and will continue to fully support broad and diverse membership on such committees. In fact, as to the Energy and Environmental Markets Advisory Committee, which I chair, in the past year I significantly expanded not only the scope of the committee's mandate, but also the representation on the committee to ensure that consumer groups and others who formerly had not had a voice in that venue were included in the membership. I commit to continuing to ensure that membership of any CFTC advisory Committee fully complies with the requirements of the Federal Advisory Committee Act.

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the Record

Scott O'Malia
September 30, 2009

Senator Charles Grassley

1) **When testifying before the Agriculture Committee last year, Acting Chairman Lukken and Commissioner Chilton discussed several new initiatives to improve trade collection and dissemination efforts to bring more transparency in the areas of agriculture and energy markets. Do you think the steps taken by the CFTC in recent months go far enough to bring greater transparency and scrutiny in energy and agriculture trades? If not, what suggestions can you offer?**

Under the leadership of former Acting Chairman Walt Lukken and Chairman Gary Gensler, the CFTC has expanded the collection of data as well as improved the fidelity of this information to better understand what impact non-commercial traders have had on the market. I support these efforts to bring transparency to the market and improve the quality of the data. If confirmed, I look forward to effectively utilizing this data to make informed policy decisions.

2) **In a hearing last year in the Senate Commerce Committee, Michael Greenberger, a law professor at the University of Maryland and former head of the CFTC's Division of Trading & Markets, suggested that if the CFTC required all U.S. crude trades to be subject to CFTC regulation and trading limits, oil prices would drop by 25% overnight. At the high, the price of a barrel of oil was $147 in the summer of 2008. Now it's under $67. Did all these speculators suddenly leave the market? Why without CFTC regulation did the price actually drop to less than a 1/2 of the original price?**

I believe one of the most significant factors that contributed to the decline in global oil price was the drop in global demand which also reduced pressure on our global capacity. When the price began to decline speculators and others did leave the market. While global demand has declined and prices have fallen, nothing has been done to relieve the capacity constraints in global markets, which could lead to price increases in the future. I believe we will likely to see prices rise significantly in the next few years when the U.S. and global economies recover. The Department of Treasury has proposed a financial reform bill that would impose position limit on energy derivatives. This tool has been used effectively in agriculture markets for the past 70 years. If applied to other commodities of finite supply, including energy markets, I do believe it could contribute to slowing the growth in oil prices, but will not correct the fundamental long term supply and demand pressures.

Senator Pat Roberts

1) **What is your definition of "systemic risk?" Do you believe every OTC participant or product creates "systemic risk" to our national economy? If so why? If not, then why should Congress pass legislation that treats all participants and products as if they do create a "systemic risk" as some are suggesting?**

   Systemic risk is the risk posed to an entire market as opposed to commercial risk posed by an individual company. Because of the interconnectedness in many markets, poor performance of one company can affect the entire market or system, rather than being isolated to the company with the poor performance. OTC derivatives are one way this interconnectedness proliferates through the system. However, not every derivative contract presents the same level of risk or capacity to destabilize markets. The Department of Treasury has offered a reform proposal that would regulate standard contracts and establish new risk based standards for customized products. If confirmed, I am committed to working with Congress and the Administration to develop legislative or regulatory proposals that strike the appropriate balance to enable commercial entities to cost-effectively hedge their risk while helping to avoid a repeat of the current financial crisis.

2) **This summer the Treasury Department proposed the creation of a systemic risk regulator to call for the imposition of capital requirements for participants in the OTC derivatives markets. Some view this as creating a significant barrier to entry, one that could in fact force many non-financial companies out of these markets. If the result of such a requirement was to leave only a few large market participants, wouldn't that enhance the possibility of systemic risk, rather than lessen it?**

   I believe we must ensure that we have completely transparent markets that enable all commercial participants to cost-effectively hedge their risk. This requires sufficient liquidity and an adequate number of counterparties to enable commercial entities to hedge their risk. I share your views that we should not create barriers to entry that prevent commercial interests from accessing these markets, which might leave participants vulnerable to commodity risk or encourage them to utilize foreign trading venues.

Senator Max Baucus

1) **Under a cap-and-trade system for carbon emissions, markets for trading of carbon allowances and carbon allowance derivatives are expected to develop. If the CFTC is granted oversight authority over such markets, please provide how the CFTC would ensure the following: (1) the markets are transparent; (2) the markets are free from abuse and unfair manipulation; and (3) the markets have sufficient liquidity.**

I believe the CFTC should be given authority over a carbon market, if Congress passes a cap and trade bill. The CFTC already regulates the small, but existing emissions trading systems and has the responsibility to oversee futures markets on regulated exchanges just like similar commodities. The CFTC also has regulations against manipulation and fraud. The Administration has proposed new rules to expand CFTC's authority over OTC markets which would greatly expand transparency in these markets. In order to ensure there is adequate liquidity, market participant must continue to be able to access transparent markets with low-barriers to entry. In order to carry out this mission, the CFTC will need additional personnel and resources to adequately oversee this potentially massive market.

Senator Amy Klobuchar

1) **In its 35-year history, the commodity futures trading commission has only successfully prosecuted one case of manipulation in the futures markets. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?**

You are correct; the CFTC has only one successful prosecution. To obtain a conviction, the CFTC must be able to prove intent and that the defendant created an artificial price. The recent decision by the U.S. District Court in *U.S. v. Radley* highlights the challenges in obtaining a criminal conviction for manipulation. If confirmed, I will work with the Commission, the General Counsel and Division of Enforcement to review these standards and to identify appropriate regulatory reforms and recommend legislation that can provide the necessary tools in order to provide the CFTC with the necessary legal authority to prosecute manipulation in these markets.

2) **How will you ensure that the CFTC employs its authority to prosecute market manipulators?**

If confirmed, I intend to utilize the existing authorities to prosecute manipulation and attempt to manipulate. As I noted in the previous question, I will work with the Commission experts to determine what additional reforms are necessary. Further, I am committed to enforcing all violations of the Commodity Exchange Act. For these markets to work effectively, it is essential that all participants have the confidence that these markets are free from fraud and manipulation.

Senator Maria Cantwell

1. **Do you believe that speculation in commodity futures markets -- trading or investing in commodities by persons who do not produce or use the commodity in order to profit from commodity price changes -- can affect the price of commodity futures? Do you believe that speculation in futures markets affects the actual cash price of a commodity?**

Yes, I agree all trading, including speculative trading, can have an impact on the futures price. Participants in the cash market often look to the futures for pricing information.

2. **On August 11, the Department of the Treasury submitted to Congress its legislative proposal to regulate the over-the-counter (OTC) derivatives markets. While this proposal is a very important step, there are many areas where the proposal can be strengthened and tightened to fully protect our economy and prevent another financial crisis. On August 17, 2009, CFTC Chairman Gensler sent a letter to the Senate Agriculture Committee recommending specific important changes and additions to the Department of Treasury's legislative proposal. Do you support the Department of Treasury's OTC legislative proposal? In addition, do you support each recommendation included in Chairman Gensler's August 17, 2009, letter to the Senate Agriculture Committee to improve the Department of Treasury's OTC legislative proposal?**

   I support the Treasury initiatives to bring greater oversight to OTC markets, increase the utilization of clearing to enhance transparency and reduce systemic risk, and reduce the opportunity for abusive trading practices in our markets. I believe the Treasury proposal is a strong step towards appropriate regulation of the OTC markets, but I agree with Chairman Gensler that there are improvements that can and should be made. If confirmed, I look forward to working with Congress and the expert staff at the CFTC to ensure appropriate regulation of the OTC markets is enacted as soon as possible.

3. **The CFTC has the authority to establish position limits to prevent traders from acquiring large positions that could be used to manipulate the price of commodities traded on futures exchanges and to prevent price distortions at contract expiration. To protect against excessive speculation, the CFTC sets position limits on some agricultural commodities, but does not do so for energy products such as oil futures. In late July and early August, the CFTC held hearings to address the current application of and exemptions from position limits in energy markets. Do you support Commission-set position limits in energy commodities to ensure that excessive levels of speculation, even in the absence of manipulation, are not causing "sudden or unreasonable fluctuations or unwarranted changes" in the prices of commodities?** Yes, I support the appropriate application of position limits for energy commodities. As the process proceeds, we should remain mindful of the broader goal of the Treasury proposal to bring more transactions under the oversight of market regulators. We must ensure that any position limit proposal does not have the effect of driving transactions from currently regulated and transparent markets to less regulated and opaque markets. I look forward to working with the Commission and Congress to develop a comprehensive position limit regime.

4. **The CFTC has the authority to exempt the application of speculative position limits for bona fide hedging purposes as defined by the CFTC. Currently, bona fide hedging includes transactions to hedge against exposure a scope of financial activity with no connection to the underlying physical commodity or cash markets. These non-traditional hedges are being used to manage financial risk where transactions**

have nothing to do with managing commercial risk, allowing speculators seeking to gain price exposure in commodity markets. Since 1991, when the CFTC granted its first bona fide hedge exemption for a non-commercial hedging transaction, the use of swaps by various market participants to hedge price risk has grown substantially. On March 24, 2009, the CFTC published a concept release on eliminating the bona fide hedge exemption for swap dealers. The recommendation was part of the September 2008 "Staff Report on Commodity Swap Dealers and Index Traders with Commission Recommendations" prepared as a result of Commission special calls for information from swap dealers and index traders issued in June and July 2008. Do you support eliminating the bona fide hedge exemption for non-commercial transactions?

I believe existing hedge exemptions must be reassessed as part of the overall debate on position limits. To ensure position limits can be enforced across all markets will require additional authority from Congress. I am cognizant of the fact that any exemptions or loopholes that remain could enable traders to escape oversight using unregulated or international markets.

5. **The CFTC is underfunded in terms of both budget and staff. Today, the staff numbers approximately 490, a decline of nearly 20% from earlier in the decade. During this time, markets have grown exponentially, and the issues the CFTC faces have increased in complexity. For many years, the President's budget has recommended that Congress impose a user fee on commodity market participants to fund part of the CFTC's activities. The CFTC is currently the only major U.S. financial regulator that is not at least partially funded through user fees. Do you support the imposition of user fees to fund CFTC activities?**

   I agree with you that the CFTC is woefully underfunded. I believe the resources of both staff and appropriations are insufficient to properly oversee the incredible growth in these markets. I am aware of past proposals to fund the CFTC from the collection of fees. I strongly support an increase in the CFTC budget, and if this proposal is reconsidered by Congress, it is important that the fees do not impose a burden that would discourage the commercial risk management strategies, reduce liquidity, or drive trades to unregulated markets.

6. **Current law makes it very difficult for the CFTC to effectively meet its mandate to enforce and deter market manipulation. This is because the CFTC must meet a more rigorous standard to prove market manipulation than other financial market regulatory agencies such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission. The CFTC is currently the only major U.S. financial regulator that must prove "specific intent" to do harm, a much more difficult standard to prove than the "recklessness" standard employed by the SEC, FERC, and FTC. As a result, federal courts have recognized that, with the CFTC's weaker anti-manipulation standard, market "manipulation cases generally have not fared well." In fact, the standard is so weak that in the CFTC's 35-year history, it has only successfully prosecuted and won one**

single case of manipulation. If the CFTC were granted authority to prosecute manipulation cases under the "recklessness" standard instead of the current "specific intent" standard, how would this improve the Commission's ability to prevent, deter, and enforce market manipulation? Do you support legislation to lower the burden of proof the CFTC must meet in proving manipulation cases?

I agree with you that the CFTC must achieve a high standard to prove manipulation, including proving both intent and an artificial price among others. I also agree that other federal agencies do not have the same burden of proof. The recent decision by the U.S. District Court in *U.S. v. Radley* further highlights the challenges in obtaining a criminal conviction for manipulation. If confirmed, I will work with the Commission, the General Counsel and Division of Enforcement to review these standards and to identify appropriate regulatory reforms and recommend legislation that can provide the necessary tools in order to provide the CFTC with the necessary legal authority to prosecute manipulation in these markets.

7. **On September 10, 2009, the CFTC Global Markets Advisory Committee (GMAC) announced it would convene a meeting to examine, among other issues, the "Treasury Proposal to Regulate OTC Derivatives" and "CFTC Legislative Language" as it relates to this proposal. In reviewing GMAC membership as posted on the Commission's website, it appears that the committee's membership is comprised of representatives from the various U.S. exchanges, self-regulatory organizations and the financial services industry. While the GMAC's charter requires representation of U.S. and foreign exchanges and market participants, it also requires "end users most directly involved in and affected by market globalization." Without end user and consumer participation, the committee may also not be "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act. Before any future meeting of the GMAC is scheduled, will you commit to broadening its membership to include end users most directly involved in and affected by market globalization to ensure "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act?**

I agree with you that the committee should include end users and consumers. If confirmed, I am committed to ensuring all CFTC committees comply with Federal Advisory Committee Act requirements to include a broad and diverse membership.

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the record
Harris Sherman
September 30, 2009

Senator Saxby Chambliss

1) **Question:**

As I mentioned at the hearing, I have been contacted by several constituents about your nomination. They raise concerns about your approach to managing federal, state and private land. Below is a list of the concerns I have received. Please respond to these concerns.

- Harris Sherman supports the Clinton-Babbitt Roadless rule and has worked in Colorado to revert to the Clinton-Babbitt Roadless Rule.
- He would be a threat to oil and gas, mining, coal mining, timber, grazing, gravel extraction and recreation and much more.
- According to residents of Colorado, Sherman used his position to extort or shake down money from oil and gas firms to fund his wildlife studies in return for his office not opposing their permits. In effect, he set up a "pay to play" approval process for oil and gas permits under the Colorado Dept. of Wildlife.
- He rewrote important environmental documents with the assistance of environmental activist groups negating public meetings and public comment.
- Environmental groups had special access under Harris not available to the public or other land users.
- He set up rules that infringed on private property.
- He set up a system whereby the CO Dept. of Wildlife could interfere with private contracts between farmers, ranchers and landowners and oil and gas and mining companies. He was able to blow up private contracts where he did not want oil and gas or mining operations to occur.
- It is likely he will give environmental groups special control over the US Forest Service. His pattern is to feather his own nest and he would likely use the Forest Service to do that as he did in Colorado.

Response:

I appreciate the opportunity to respond to these issues. I'm enclosing for the Record, a signed response I prepared in advance of this hearing in order to respond specifically to the claims made in the correspondence you have received.

2) **Question:**

The U.S. Department of Agriculture (USDA) seems to be carefully tracking stimulus projects which are supporting the use of wood fiber for the production of biomass energy. However, despite receiving more than $500 million for hazardous fuels reduction projects, it appears that almost none of these projects will produce wood fiber that can be used by the traditional sawmill and paper mill industries. Please tell me how many ARRA projects have produced merchantable wood fiber? How much volume in board feet or cubic feet did those produce? Please tell me whether ARRA funds have been used to pay for the non-merchantable component of stewardship contracts, allowing the commercial component to go forward in down timber markets?

Response:

While I have not been a part of the team at USDA implementing this program, I have been apprised of facts about the American Recovery and Reinvestment Act of 2009 (ARRA). The ARRA provided $1.15 billion to the Forest Service for conservation work on the nation's forest with a focus on providing and retaining jobs. Of the total, Congress appropriated $650 million for Capital Improvement and Maintenance (CIM) projects and $500 million for Wildland Fire Management (WFM) projects. Of the $500 million for Wildland Fire Management, Congress further directed $250 million to be used on Federal lands and $250 million on State and Private lands and up to $50 million of the total funding may be used to make wood-to-energy grants to promote increased utilization of biomass from Federal, State, and Private lands.

Again, while I have not been part of the implementation team, I understand that the Forest Service treated 68,000 acres of the 393,000 acres projected in planned projects. If confirmed, I look forward to working on implementation of the ARRA, as it provides a wealth of opportunities for resources and economic growth. I will study this issue more closely and ensure that we are achieving the maximum benefits possible with the resources provided for this program.

3) **Question:**

Recently, Secretary Vilsack announced his vision for the role of USDA in managing public and private forests. His "all lands" approach suggests that USDA will take an active role in matters affecting private forests, including their participation in climate change and energy policies and their role in addressing environmental services, like clean water and air and providing wildlife habitat. Working forests are a significant part of the jurisdiction of this committee, and we want to make sure that any policies affecting working forests are developed with the full participation of private forest

owners and this committee. Will you fully involve private forest owners in the development of USDA policies on working forests? Will you fully involve this committee in any policies USDA develops on working forests? Will you commit to working with the committee to explore policy opportunities together that will promote the benefits of working forests?

Response:

I applaud Secretary Vilsack for articulating a new and clear vision for forestry. Water quality and related natural resource issues are important to me and I am enthusiastic at the prospect of joining the team at USDA to help guide implement this vision. Clearly, it is important to take a collaborative approach in the headwaters, tributaries and looking at all of the actions on the land and how those actions interact with water quality. Without question, this will mean engaging state and private partners because of what is happening in private woodlots and across multi-jurisdictional and lands.

If confirmed, I look forward to keeping the Committee fully informed about our efforts to sustain private forest lands. The position of Under Secretary for Natural Resources and Environment affords a tremendous opportunity to work with State Forestry Agencies, Tribes, and a diverse range of partners and stakeholders. I am enthused about the full range of programs that seek to address forest protection, restoration, and management needs across the landscape from urban open space to rural headwaters.

Senator Tom Harkin

1) **Question:**

The Food, Conservation, and Energy Act of 2008 (FCEA) reflects carefully balanced and integrated compromises. Among the most important decisions by Congress was the agreement to include some $4 billion in additional funding for conservation programs over 10 years above budget baseline levels. The policies enacted and funded in the legislation are being effectively used, for example, in the recently-announced Mississippi River Basin Initiative, which makes extensive use of funding from the Environmental Quality Incentives Program (EQIP) and authority from the Cooperative Conservation Partnership Initiative.

Do you agree that in light of the significant demands and need for conservation on agricultural land it would be unwise to cut back on the funding committed to conservation in the FCEA?

Response:

There is increasing national attention directed to the state of this country's water, air, soil and plant and animal resources. Regional initiatives such as the Chesapeake Bay, the Mississippi River Basin Healthy Watersheds, and the Great Lakes Reinvestment Act, all serve to highlight the needs for conservation funding. I understand that the NRCS has seen continuing substantial backlogs of unfunded applications for EQIP, WHIP, FRPP, and AMA. Also, the new Conservation Stewardship program has a great deal of interest around the country. Despite the troubled economy, all mandatory programs, including the Conservation Security Program, have shown healthy sign-ups in FY09. All of these figures demonstrate the growing need for, and interest in, Farm Bill Conservation Programs by private landowners and conservation partners. If confirmed, I look forward to working on Farm Bill implementation and specifically identifying ways to best utilize and support the Conservation Title investments that the Farm Bill provides.

2) **Question:**

In recent audits by the Department of Agriculture Office of Inspector General of the Wetlands Reserve Program and the Conservation Security Program the OIG identified failure to ensure compliance with the program requirements. This problem traces back, in my view, to insufficient funding being allocated for Natural Resources Conservation Service technical assistance personnel and activities so that conservationists can carry out conservation programs, including necessary compliance checks. For instance, the number of acres enrolled in the Wetlands Reserve program has continued to increase, and therefore the cost of monitoring and enforcing WRP easements has continued to rise, but the technical assistance support funding allocated for the program has stayed relatively flat at around 5 percent of total WRP funding. Currently, WRP technical assistance cost for monitoring and enforcement are an estimated $12 an acre, but allocated funding for these activities are only around $6 an acre.

How will you ensure that sufficient funding is allocated to NRCS technical assistance personnel and activities so that conservation programs can be carried out and delivered to farmers and ranchers properly, and so that NRCS can fulfill its core responsibility to enforce the statutory regulatory requirements of programs?

Response:

I have been briefed in general terms regarding the issue you raised. NRCS is looking for ways to increase its efficiency; thereby freeing up staff time to do the kind of work referenced in your question. Without question, technical assistance resources are vital to achieving success on all of our natural resources goals. This is true in terms of taking an "all lands" approach. It is true in terms of applying the resources

needed to help quantify and verify greenhouse gas mitigation steps. And, it is certainly true of effective and accountable implementation of the Farm Bill.

But beyond that, I am also interested in supporting the basic conservation infrastructure, planning and assistance needed to assist landowners, even in cases where no cost share or governmental financial investment is involved. If confirmed, I look forward to assisting and helping to lead a new budget allocation process with a goal of funding the field conservation needs first so that as many financial resources as possible can be directed to funding technical assistance personnel.

Senator Max Baucus

1) **Question:**

Congratulations on your nomination to be Undersecretary for Natural Resources and the Environment for the Department of Agriculture. I am pleased that the President has chosen someone with your experience dealing with issues facing the forests, prairies and water resources of the West.

If confirmed, you will oversee programs and implement authorities that have a major impact on the economy and natural environment of my state. One authority the Forest Service has at its disposal is the ability to enter into stewardship contracts that enable it to trade logs and other goods to help carry out projects that reduce hazardous fuels, improve watersheds and other important forest management goals.

Stewardship contracting is very popular in Montana, helping form collaborative partnerships among diverse groups of forest users such as the wood products industry, the conservation community and sportsmen. Stewardship contracting also makes good economic sense for the Service. On one ranger district in my state, stewardship contracting enabled the ranger to perform nearly $1 million of service work for which the district did not have appropriated funds.

While I am pleased that use of stewardship contracting is gradually increasing, I want the Forest Service to do much more. Since the Service was given broader contracting authority in 2003, it has completed only 34 contracts in the Northern Region. Most other regions have completed even fewer. I would like to know if you, as undersecretary, would work to substantially increase use of stewardship contracting, not only in my state, but across the nation. Does the Forest Service need any additional authorities to improve and increase the use of stewardship contracting and agreements?

Response:

If confirmed, I would explore the feasibility of increasing the use of stewardship contracting. This could become an important part of the US Forest Service's tool box to achieve restoration work. I understand that the Forest Service is currently looking at options to increase the use of stewardship contracting where appropriate, in pursuit of the Secretary's forest restoration goals. I also understand that Stewardship contracting authority is currently a temporary authority that will expire in 2013. If confirmed, I would look closely at this issue and seek to gauge whether broader use of this tool could also be facilitated by alleviating constraints associated with the current requirement to fully obligate (fund) the cancellation liability at the time of contract award.

2) **Question:**

Additionally, some non-profit groups have told me the Forest Service has been inflexible in determining matching requirements for stewardship agreements. The stewardship authority provides Forest Service and Bureau of Land Management personnel the same discretion in establishing matching requirements. Yet, the Forest Service requires a 20 percent match from non-profits, while the BLM requires no firm match. These non-profits can be valuable partners in stewardship projects and the Service should be more creative in evaluating their contributions. I would like to know if you will take steps to encourage non-profit participation in stewardship agreements.

Response:

It is my understanding that current Forest Service policy provides the Regional Forester discretion to reduce the level of the required match to as low as 5%. Current Forest Service policy also allows the match to be either in cash or in an "in kind" contribution. I understand that these are both recent policy changes that seek to address the concern expressed by the non-profit partners and ameliorate the constraint. If confirmed, I look forward to being more fully briefed on these topics and determining what further action, if any, might be warranted.

Senator Debbie Stabenow

1) **Question:**

What is your understanding of the authority given to USDA by section 1245 of the Farm Bill, and how do you foresee this authority being carried out over the next several years?

Response:

The statutory section that you have highlighted in your question, is one that I am enthusiastic to work on, if confirmed. This section of the 2008 Farm Bill, "Environmental Services Markets," is intended to aid development of market-based approaches for environmental goods and services. The provision requires the Secretary of Agriculture to establish technical guidelines for measuring environmental services from conservation and other land management activities. Specifically, I understand that the section requires the Secretary to develop:

- Standards, guidelines and procedures for measuring environmental services benefits;
- Protocols for reporting and verifying these benefits;
- A registry to collect, record, and maintain information on benefits measured.
- Involve stakeholders

If confirmed, I look forward to being briefed more thoroughly on the work of the Office of Ecosystem Services and Markets. I also look forward to working on this issue closely and promoting the utilization of market based conservation opportunities.

2) **Question:**

As Congress continues to debate climate legislation, what can USDA be doing now to develop methodologies and standards for GHG emission reductions in agricultural and forestry offset projects?

Response:

I am looking forward to the opportunity to work closely on the issue of Climate Change and greenhouse gas emission reductions. I share the views of Secretary Vilsack and the Administration that climate change mitigation provides a wealth of opportunities for agriculture and for foresters. If confirmed, I would work to better bolster and coordinate our ongoing research efforts – both within USDA and throughout the scientific community. Some of the work that must be furthered in this area includes developing practical methods for verifying the results of carbon offset land management activities. Research will continue to be needed to reduce the uncertainty that remains in quantifying the life cycle GHG emissions for some forestry practices, such as prescribed fire and others. I am also looking forward to exploring the work of the Forest Inventory and Analysis and helping to promote forest landowner participation in potential offset programs.

If confirmed, I would also like to build on the substantial progress made to date in providing opportunities to increase the utilization of biomass to generate renewable energy and offset the use of fossil fuels. I believe that further progress can be made

both in our standard programs, but also within special funding and authorities provided through the Recovery Act. I look forward to working with you and other Members of the Committee in this regard.

3) **Question:**

The President has committed to and Congress is ready to pass over $400 million for Great Lakes Restoration projects. This funding will build upon the work that many Great Lakes stakeholders have been working to develop for over 5 years. Given that your position with USDA would oversee some of the largest federal conservation programs, how can USDA play a more vital role in Great Lakes restoration process?

Response:

The Great Lakes Restoration Initiative Action plan is a clear example of great potential for the federal government to make great strides in water quality improvements. Led by the Environmental Protection Agency, 15 different federal agencies worked together to make the Great Lakes restoration a priority. I understand that USDA has worked collaboratively to articulate the most significant ecosystem problems and to define efforts to address them.

Secretary Vilsack has articulated an overarching focus for USDA grounded in principals of sustainability and restoration not only for federal land under USDA jurisdiction but all lands. Within this framework, Great Lakes Restoration would be a key priority for me, if confirmed.

4) **Question:**

Should you be confirmed, how can USDA better collaborate with EPA to ensure land management programs are more successful in the future?

Response:

I believe that both NRCS and the Forest Service have a long history of collaborating with EPA on a number of issues such as source water protection, watershed restoration, air quality, smart growth and urban land use, and best management practices for protection of water quality. If confirmed, I would want to further that relationship, both personally with the leaders of EPA, but also to help establish a better working professional relationship between our agencies at all levels. I would want to work closely together as we mutually address emerging challenges around issues like air quality, wildland fire and smoke, and watershed management. The

Forest Service will continue to provide sound advice to EPA to assure that associated regulations achieve their intended purposes without unintended consequences.

Senator John Barrasso, M.D.

1) **Question:**

In Wyoming, where more than half of the state is public land, we are keenly aware of the U.S. Forest Service responsibility for management of its lands. Currently, we face an unprecedented bark beetle infestation that threatens our forests and communities. If confirmed, how will you address the following management challenges related to this infestation?

Response:

I know from my experiences in Colorado, extensive tree mortality from the bark beetle epidemic has been devastating my state as well as Wyoming and Montana. The area affected (nearly 8 million acres in 2008), the number of species of trees and beetles involved, and the diversity of ownerships has presented management challenges. Dense and homogeneous stands, combined with drought and warmer temperatures, have favored bark beetle population increases. If confirmed, I would work closely with this Committee to identify how resources of our agencies can be best applied to meeting these challenges. Or, if the authorities and resources we are currently working within cannot achieve the desired objectives, we will work collaboratively with you to determine how we can fill those gaps.

a. **Question:**

Programmatic funding for Regions 2 and 4 of the U.S. Forest Service has historically fallen well below need. These regions have been disproportionately deprived of management resources. How will you address the funding needs for management of the bark beetle outbreak throughout Regions 2 and 4?

Response:

From my experiences in Colorado, I understand that throughout much of the Rockies, lodgepole pine forests are experiencing a severe and widespread epidemic of mountain pine beetle. In addition, national forests in the west are experiencing numerous major wildland fires. I understand that the agency acknowledges the issues and managements challenges created by these forest health challenges. The extent of bark beetle infestations, in particular, precludes widespread treatments and I am told that the Forest Service and State partners are focusing on treatments in high priority

areas, such as the wildland-urban interface, recreational areas, water sources and ecologically significant areas.

If confirmed, I can commit that I would closely examine the allocation of resources among regions for this purpose, and determine what further actions are needed to make our bark beetle mitigation and recovery efforts as effective as possible.

b. **Question:**

U.S. Forest Service local managers are facing an unprecedented forest health event. What management authorities do you believe need to be adjusted to meet the challenges posed by this infestation? Specifically, how will the Department, under your direction, address each of those needs?

Response:

If confirmed, I would work hard and focus resources on the topic that you have raised in this question. In dealing with the suppression of the current infestation and prevention activities to reduce the susceptibility to future outbreaks, I would work with you and other Members of Congress to determine what, if any, additional resources or authorities might be needed.

c. **Question:**

Bark beetle infestation spreads beyond political boundaries. We must take a regional approach to management of our forests. Specifically, how will you promote regional action to regional management of the bark beetle infestation?

Response:

I understand that the Forest Service Region 2 has established the Bark Beetle Incident Management Team (IMT) to address the impacts of the infestation, and find ways to increase efficiencies to treat more acres with current funding. I am told that this IMT is coordinating activities among the various agencies affected to reduce hazardous fuels, capture the commercial value of trees to the maximum extent possible (i.e., timber sales & stewardship contracts), spraying trees in campgrounds, and the removal of hazardous trees in developed recreation areas, along roads and trails.

But the issue and approach raised in your question is an excellent one. It is important for leaders to look well beyond existing boundaries and job descriptions to deal with important priorities and emerging crises. If confirmed, I assure you that I will work

to apply resources to dealing with this problem in a manner that takes a holistic approach to the entire area affected.

2) **Question:**

Our forest products industry partners are struggling in this economy. Many of the industry partners who historically helped manage federal forests are no longer in business. This increases the burden on federal agencies and weakens our local communities. If confirmed, how will you promote business friendly practices at U.S. Forest Service to sustain and regrow the American forest products industry?

Response:

The issue raised in this question is one that I look forward to working on, if confirmed. The national economy and with it the forest products market has declined over the past several years to an extent that many timber sales throughout the country are no longer economic to harvest. This drastic decline in forest products markets is now in its third year and is greater in magnitude than a similar decline in the early 1980's. Timber sale purchasers are faced with great economic losses on existing timber sales and, in many cases, can be faced with bankruptcy if forced to log under existing contract terms. Secretary Vilsack has made it a priority to help rural Americans and build future economic opportunities. I see forests and specifically private forest products as a central part of this effort. Further, to achieve out forest restoration goals, we need an infrastructure to maximize investments. I look forward to getting in place at the Department, if confirmed, and working on an overall strategy with my counterparts within the Rural Development mission area and other colleagues to realize more opportunities for forest products and build the infrastructure needed for a restoration economy.

3) **Question:**

U.S. Forest Service recently proposed spending $2.8 million of wildland fire management funding under PL 111-5, the "American Recovery and Reinvestment Act," in Washington, D.C. Of the 5.5 million acres of wildlands nationwide, as defined by the National Interagency Fire Center, Washington, D.C. has none. There is no need for wildland fire management funding in the District of Columbia. While the kind of State and Private Forestry projects proposed for Washington, D.C. have merit, wildland fire management funding should not be diverted for this purpose. U.S. Forest Service must prioritize its limited resources to meet its basic responsibilities. Wyoming communities depend upon adequate management of U.S. Forest Service lands and we demand that the agency get its priorities straight. If confirmed, how will you direct U.S. Forest Service to prioritize its wildland fire management budget in the future?

Response:

I have not been part of the team at USDA implementing the Recovery Act, although I am enthusiastic to assist USDA in this effort. The legislation contains so many opportunities for the nation, including helping natural resources and making our country more resilient to future conservation challenges.

I have only been briefed on general issues that you raise in your question but if confirmed, I look forward to working with our professional program staff to gain a full understanding of the program funding that has been provided to date and gauge the relative merits and priorities for this funding going forward.

4) **Question:**

If confirmed, will you join Secretary of Interior Ken Salazar in supporting west-wide good neighbor authority, that would allow BLM and U.S. Forest Service to enter cooperative agreements with the states to implement forest health projects?

Response:

Yes, and I further believe national good neighbor authority is warranted to help address forest health issues that challenge eastern forests across diverse land ownerships. In these times of limited resources, it is important to leverage workforce and technical capacities, all within existing environmental laws and regulations.

5) **Question:**

U.S. Forest Service renewal of grazing permits is continually backlogged. This is a detriment to public land ranchers and to the day-to-day operation of the U.S. Forest Service range management. If confirmed, specifically how will you address the permit backlog and improve the agency's handling of grazing permit renewals?

Response:

I am told that the Forest Service has developed a schedule, and is vigorously working towards completion of NEPA for all grazing allotments. If confirmed, I will work with the Forest Service and Congress to find the most expeditious means to complete the required NEPA to continue the use of National Forest System grazing allotments.

Honorable Saxby Chambliss
U.S. Senator
416 Russell Senate Office Building
Washington, DC 20510

Dear Senator Chambliss:

Thank you for the opportunity to respond to the e-mail you received from Mr. Jerry Peavy of Griffin, GA, concerning my nomination as Under Secretary at USDA.

The e-mail is an amalgam of vague, unspecified charges from unnamed sources about alleged actions I have taken in my capacity as Director of the Colorado Natural Resources Department. The claims made are untrue and unfairly malign me and my colleagues at the Department of Natural Resources.

As Director, I oversee Colorado's energy, water, wildlife, parks, and state lands programs. I also serve as Co-Chairman of the Governor's Forest Health Advisory Committee. The Department of Natural Resources has approximately nine divisions, 2,000 employees, and a $200 million plus budget. Our work is very diverse and we seek to balance many competing concerns. Resource issues are often contentious and it is our job to reconcile as many of these competing interests/issues as possible while protecting the State's economy and environment.

Colorado is blessed with an unusually diverse and vibrant economy. Agriculture, tourism, hunting and fishing, energy, manufacturing, high technology, and government sectors are all important cogs in our economic engine. The State also has some of America's most beautiful, high quality environments including wilderness and roadless areas, national and state parks, valleys and grasslands. Blending the economic goals of our State with our desire to protect our environment is a primary goal of my department.

Reading between the lines of Mr. Peavy's e-mail, he appears to be complaining about the recent legislation and rule making concerning Colorado's oil and gas development. By way of background, since 1999, Colorado has experienced an eightfold increase in natural gas permits issued each year by the Oil & Gas Commission. Production of this resource often takes place in rural, relatively undeveloped areas with high scenic value. Often, these areas that have strong tourist, hunting and fishing, agriculture, retirement and second home economies. Because of the newness and pace of the oil and gas development, multiple concerns were raised by residents regarding protection of drinking and irrigation

water, impacts to wildlife, public health and safety issues, air quality, and general quality of life considerations.

Our Legislature passed a bill in early 2007 that expanded the Oil and Gas Commission to include not only industry members, but also citizens representing farming, mineral property owners, wildlife and local government. A new statutory mission was given to the Commission to foster oil and gas production in a manner consistent with the protection of the State's environment, wildlife, and public health and welfare. The Division of Wildlife and Health Department are now required to consult with the Oil and Gas Commission regarding wildlife and environment matters.

Rule-making followed the legislation. It was the most transparent, open and comprehensive rule-making in the State's history. Extending over 18 months, all parties (approximately 85) were given every opportunity to provide input to the Oil & Gas Commission. The Commission heard from industry, local governments, agriculture, sportsmen, homebuilders, royalty owners, property owners, and environmental groups. Every group had access and input into the process. No special access was given to any group nor did any group have more opportunity for input than anyone else. The process was open and transparent. Property rights were respected. The final rule-making was balanced and fair; it was unanimously supported by the Oil & Gas Commission including its 3 industry representatives.

Subsequently the Colorado Legislature reviewed and approved the rules, as required by Colorado law, and the Governor thereafter signed the rule-making package into law. Major newspapers throughout Colorado, including the Denver Post, Grand Junction Sentinel, and Durango Herald, supported the rules as balanced, moderate, and workable. Recently, representatives of the oil & gas industry have also pointed to the Colorado rules as a responsible way of addressing certain issues without the need for federal intervention in similar areas.

The Oil & Gas Commission is now implementing the new regulatory system. It works closely with the Division of Wildlife and Department of Health. As part of the process, the Division of Wildlife will meet periodically with operators to discuss mitigation of wildlife impacts and work to formulate agreements that can be proposed to the Oil and Gas Commission. The Division of Wildlife's views are recommendations only and it cannot dictate wildlife terms to any operator. Under the new system, landowners must agree to wildlife specific terms and conditions before they can become part of any permit.

Recently, Colorado, like other parts of the United States, has experienced a slowdown in gas production. This slowdown is a result of the drop in natural gas prices, the severe credit crunch, and the fact that Colorado's export pipelines are at capacity. Governor Ritter and I have repeatedly emphasized that Colorado's

natural gas industry is essential to the State's economy and can play a central role in dealing with the nation's climate change challenges. There is no reason that this industry cannot thrive while at the same time being respectful and compatible with the State's environment, public health and safety, and our wildlife resources.

If I am confirmed, I will bring a balanced approach to the Under Secretary's position. Recreation, timber, mining, oil and gas, grazing, and other economic activities have an important place on our national forest lands. These resources can be utilized in a fashion that is consistent with protection of wilderness and roadless areas, conservation, and restoration activities within these forest lands. My door is always open to any group or individual who wishes to meet and discuss these issues.

Thank you,

HARRIS D. SHERMAN

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the record
Commissioner Jill Sommers
October 6, 2009

Senator Maria Cantwell

1. Do you believe that speculation in commodity futures markets -- trading or investing in commodities by persons who do not produce or use the commodity in order to profit from commodity price changes -- can affect the price of commodity futures? Do you believe that speculation in futures markets affects the actual cash price of a commodity?

   Yes, I believe that speculation can affect the price of commodity futures. Hedging, the taking of a position in the futures market opposite the position held in the cash market to minimize the risk of loss from an adverse price change, may also affect futures prices. While hedgers trade primarily to manage risk they also tend to bring a view to the market about where prices may be heading. In essence, futures prices are a consensus of the opinions of all who enter the market. The futures price of a commodity is linked to its cash price through the delivery process. As a result, futures and cash prices tend to move together. So, to the extent that speculation or hedging affects futures prices, they may also affect cash prices.

2. On August 11, the Department of the Treasury submitted to Congress its legislative proposal to regulate the over-the-counter (OTC) derivatives markets. While this proposal is a very important step, there are many areas where the proposal can be strengthened and tightened to fully protect our economy and prevent another financial crisis. On August 17, 2009, CFTC Chairman Gensler sent a letter to the Senate Agriculture Committee recommending specific important changes and additions to the Department of Treasury's legislative proposal. Do you support the Department of Treasury's OTC legislative proposal? In addition, do you support each recommendation included in Chairman Gensler's August 17, 2009, letter to the Senate Agriculture Committee to improve the Department of Treasury's OTC legislative proposal?

   I believe the recommendations that are included in Chairman Gensler's letter add significant improvements to Treasury's OTC proposal and are intended to enhance the CFTC's ability to implement the much needed comprehensive financial market reforms.

3. The CFTC has the authority to establish position limits to prevent traders from acquiring large positions that could be used to manipulate the price of commodities traded on futures exchanges and to prevent price distortions at contract expiration. To protect against excessive speculation, the CFTC sets position limits on some agricultural commodities, but does not do so for energy products such as oil futures. In late July and early August, the CFTC held hearings to address the current application of and exemptions from position limits in energy markets. Do you support Commission-set position limits in energy commodities to ensure that excessive levels of speculation, even in the absence of manipulation, are not causing "sudden or unreasonable fluctuations or unwarranted changes" in the prices of commodities?

   I believe that appropriate position limits need to be set consistently across all markets in order to effectively address the issue of excessive speculation.

4. The CFTC has the authority to exempt the application of speculative position limits for bona fide hedging purposes as defined by the CFTC. Currently, bona fide hedging includes transactions to hedge against exposure a scope of financial activity with no connection to the underlying physical commodity or cash markets. These non-traditional hedges are being used to manage financial risk where transactions have nothing to do with managing commercial risk, allowing speculators seeking to gain price exposure in commodity markets. Since 1991, when the CFTC granted its first bona fide hedge exemption for a non-commercial hedging transaction, the use of swaps by various market participants to hedge price risk has grown substantially. On March 24, 2009, the CFTC published a concept release on eliminating the bona fide hedge exemption for swap dealers. The recommendation was part of the September 2008 "Staff Report on Commodity Swap Dealers and Index Traders with Commission Recommendations" prepared as a result of Commission special calls for information from swap dealers and index traders issued in June and July 2008. Do you support eliminating the bona fide hedge exemption for non-commercial transactions?

   The concept release the Commission published in March asked for comment on eliminating the bona fide hedge exemption for certain swap dealers and creating a new limited risk management exemption. Commission staff is in the process of analyzing the comments received. In addition, the Commission held three days of hearings in July and August and heard from a number of different markets participants regarding the application of position limits and exemptions. This is a complex issue but I believe a possible solution would enable the Commission to grant exemptions to only those market participants that can demonstrate a commercial risk.

5. The CFTC is underfunded in terms of both budget and staff. Today, the staff numbers approximately 490, a decline of nearly 20% from earlier in the decade.

During this time, markets have grown exponentially, and the issues the CFTC faces have increased in complexity. For many years, the President's budget has recommended that Congress impose a user fee on commodity market participants to fund part of the CFTC's activities. The CFTC is currently the only major U.S. financial regulator that is not at least partially funded through user fees. Do you support the imposition of user fees to fund CFTC activities?

Yes.

6. Current law makes it very difficult for the CFTC to effectively meet its mandate to enforce and deter market manipulation. This is because the CFTC must meet a more rigorous standard to prove market manipulation than other financial market regulatory agencies such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission. The CFTC is currently the only major U.S. financial regulator that must prove "specific intent" to do harm, a much more difficult standard to prove than the "recklessness" standard employed by the SEC, FERC, and FTC. As a result, federal courts have recognized that, with the CFTC's weaker anti-manipulation standard, market "manipulation cases generally have not fared well." In fact, the standard is so weak that in the CFTC's 35-year history, it has only successfully prosecuted and won one single case of manipulation. If the CFTC were granted authority to prosecute manipulation cases under the "recklessness" standard instead of the current "specific intent" standard, how would this improve the Commission's ability to prevent, deter, and enforce market manipulation? Do you support legislation to lower the burden of proof the CFTC must meet in proving manipulation cases?

Under current law, to prove manipulation the Commission must establish that the accused: (1) had the ability to affect market prices; (2) specifically intended to do so; (3) created an artificial price; and (4) caused the artificial price. In addition to its general antimanipulation authority, the CEA grants the Commission authority to prosecute specific manipulative practices such as the false reporting of transactions or market information, exceeding position limits, wash sales, accommodation trades, and fictitious sales.

The CFTC has filed a total of 57 enforcement actions alleging manipulation and/or attempted manipulation. Of those cases, 55 were resolved in the agency's favor against some or all of the defendants through settlement, default, or administrative hearings (one of which was reversed by the Commission on appeal), one was lost after trial, one was won after trial in federal court (currently on appeal), and one remains pending. The civil monetary penalties imposed by the Commission from these cases total $617,132,000.

The "recklessness" standard employed by the SEC, the FERC, and the FTC was a subject of discussion at joint meetings on market regulation harmonization held by the CFTC and the SEC on September 2 and 3, 2009. Some panelists observed that the types of manipulative schemes that occur in the securities markets are often different than the manipulative practices that occur in the commodities markets, with "pump and dump" cases being common in the securities markets as opposed to corners or squeezes in the commodities markets. The Commission's Office of General Counsel has expressed concern that the SEC's "recklessness" standard may not be sufficient to cover market power cases involving squeezes and corners in the commodities markets where the manipulator's conduct does not involve fraud or deception.

A recent case decided in the United States District Court for the Southern District of Texas, United States v. Radley, [cite], raises other concerns regarding the Commission's manipulation authority. In Radley the court ruled that the manipulation standard under Commodity Exchange Act failed to provide the defendants with sufficient notice that their conduct was illegal because it fails to define "artificial price." This decision could have far reaching implications for the Commission's enforcement program if other courts choose to follow its reasoning.

I believe that a statutory clarification of the Commission's manipulation authority would be prudent and that the precise nature of the clarification must be carefully studied and analyzed.

7. On September 10, 2009, the CFTC Global Markets Advisory Committee (GMAC) announced it would convene a meeting to examine, among other issues, the "Treasury Proposal to Regulate OTC Derivatives" and "CFTC Legislative Language" as it relates to this proposal. In reviewing GMAC membership as posted on the Commission's website, it appears that the committee's membership is comprised of representatives from the various U.S. exchanges, self-regulatory organizations and the financial services industry. While the GMAC's charter requires representation of U.S. and foreign exchanges and market participants, it also requires "end users most directly involved in and affected by market globalization." Without end user and consumer participation, the committee may also not be "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act. Before any future meeting of the GMAC is scheduled, will you commit to broadening its membership to include end users most directly involved in and affected by market globalization to ensure "fairly balanced in terms of the points of view represented" as required under the Federal Advisory Committee Act?

Yes.

Senator Max Baucus

1. Under a cap-and-trade system for carbon emissions, markets for trading of carbon allowances and carbon allowance derivatives are expected to develop. If the CFTC is granted oversight authority over such markets, please provide how the CFTC would ensure the following: (1) the markets are transparent; (2) the markets are free from abuse and unfair manipulation; and (3) the markets have sufficient liquidity.

   If the CFTC is granted oversight over carbon allowances and related derivatives markets under a cap-and-trade system for carbon emissions, the CFTC would include these contracts in its ongoing oversight program for regulated U.S. futures and options markets. A key goal of this program is to detect and deter market manipulation and abusive trading practices. Effective oversight will likely help attract liquidity by building confidence in these emerging markets.

Senator Charles E. Grassley

1. This question is just for Ms. Sommers and Mr. O'Malia. When testifying before the Agriculture Committee last year, Acting Chairman Lukken and Commissioner Chilton discussed several new initiatives to improve trade collection and dissemination efforts to bring more transparency in the areas of agriculture and energy markets. Do you think the steps taken by the CFTC in recent months go far enough to bring greater transparency and scrutiny in energy and agriculture trades? If not, what suggestions can you offer?

   Transparency is the cornerstone of a well functioning regulatory system. Regulators must have sufficient reliable information from the marketplace in order to ensure that the exchanges under their oversight are operating in an open and competitive manner, free from manipulative influences or other price distortions. The markets must also be transparent to market participants and the public.

   The CFTC has taken a number of steps in the past year to bring greater transparency to the U.S. commodity futures and options markets. In accordance with recommendations contained in a September 2008 Staff Report on Commodity Swap Dealers and Index Traders, as of September 4, 2009, the Commission began publishing a new disaggregated Commitments of Traders (COT) report to shed light on the changing composition of large traders in the markets. Prior to the new disaggregated report, the Commission separated large

trader data into two categories: (1) commercial; and (2) noncommercial. The new report separates large trader data into four categories: (1) Producer/Merchant/Processor/User; (2) Swap Dealers; (3) Managed Money; and (4) Other Reportables. The Commission intends to also release in the near future three years of historical data for the new report.

In addition to the new disaggregated COT reports, the Commission is working to create a new COT report for all the financial markets to improve the transparency of those markets. The CFTC is also working on improvements to the agency's Form 40 and other methodologies to improve the accuracy of trader classifications.

Also beginning on September 4, 2009, the CFTC began releasing expanded Index Investment Data detailing the notional values of index investment positions and the equivalent number of futures contracts for all U.S. markets with more than $0.5 billion of reported net notional value in any one quarter. The new Index Investment Data is more comprehensive than index data previously released by the Commission in that it covers more U.S. markets (not just selected agricultural markets) and includes both the gross long and gross short positions. The Commission intends to release this data on a quarterly basis with the goal of releasing it on a weekly basis in the future.

Upon announcing the new disaggregated COT reports and Index Investment Data, the Commission sought public comment on any possible further enhancements. I am hopeful that as the CFTC continues to receive additional data from markets and suggestions from the public on how to improve the collection and dissemination of this information, we will continue to refine and enhance the data we release to the public.

2. In a hearing last year in the Senate Commerce Committee, Michael Greenberger, a law professor at the University of Maryland and former head of the CFTC's Division of Trading & Markets, suggested that if the CFTC required all U.S. crude trades to be subject to CFTC regulation and trading limits, oil prices would drop by 25% overnight. At the high, the price of a barrel of oil was $147 in the summer of 2008. Now it's under $67. Did all these speculators suddenly leave the market? Why without CFTC regulation did the price actually drop to less than a 1/2 of the original price?

According to our economists, the CFTC's large trader and index investment data seem to show that speculative activity did not decrease significantly during this period of price collapse. I cannot determine the precise cause of the decline, but I suspect that many factors contributed, both global and domestic. Most oil market analysts argue that the extraordinary run up in price was caused by expectations

of insufficient supply due to world wide economic growth. These analysts typically explain that high prices eventually gave way to weak demand as the global economy moved into the current recession. Whatever the cause of the volatility of oil prices over the last two years, I support regulatory reform efforts that would subject oil trading across all markets to robust regulatory standards.

Senator Pat Roberts

1. What is your definition of "systemic risk?" Do you believe every OTC participant or product creates "systemic risk" to our national economy? If so why? If not, then why should Congress pass legislation that treats all participants and products as if they do create a "systemic risk" as some are suggesting?

   In my view, systemic risk is the risk that the default of, or other financial difficulty experienced by one or more market participants, results in the dislocation or distress of the entire financial market. I do not believe that every OTC market participant or product has the potential to create, or does in fact create, systemic risk. Congress may want to consider that a very important distinction would be where the line is drawn between those market participants and products that are systemically important and those that are not.

2. This summer the Treasury Department proposed the creation of a systemic risk regulator to call for the imposition of capital requirements for participants in the OTC derivatives markets. Some view this as creating a significant barrier to entry, one that could in fact force many non-financial companies out of these markets. If the result of such a requirement was to leave only a few large market participants, wouldn't that enhance the possibility of systemic risk, rather than lessen it?

   In the specific example that you have outlined, I believe it is important to ensure that all OTC derivatives market participants are well capitalized to engage in their respective market activities and that capital requirements are set on the basis of the risk they pose to the system. This is the underlying policy of the CFTC's risk-based regulatory capital regime and it has served us well thus far. As Congress reviews the very important issues surrounding the implications of insufficient capital requirements there may be alternatives that could accomplish similar objectives. I am hopeful that any solutions that are considered will avoid requirements that create significant barriers to entry.

Senator Amy Klobuchar

1. In its 35-year history, the commodity futures trading commission has only successfully prosecuted one case of manipulation in the futures markets. In a recent speech and in your testimony, you noted that the CFTC has to prove that someone "specifically intended" to manipulate prices. As a former prosecutor, I know chasing criminals isn't easy, but this standard would seem to make it even more difficult to go after criminals. What tools do you believe the CFTC needs to ensure market manipulators are effectively deterred or prosecuted?

   Having the resources to hire and retain experienced enforcement staff and develop sophisticated information technology that can detect manipulative schemes and other trading abuses is the single greatest tool we could ask for to ensure the effectiveness of our enforcement efforts.

2. How will you ensure that the CFTC employs its authority to prosecute market manipulators?

   Our Division of Enforcement does an excellent job and I will continue to fully support all of its efforts to investigate and prosecute any market manipulation or abusive trading practices in the markets we regulate.

Chairman Blanche Lincoln

On June 3, 2008, the CFTC announced that the Division of Enforcement was conducting an investigation of the February/March 2008 price run-up in the cotton futures contract. The Commission took the extraordinary step of announcing an ongoing investigation because of the concerns expressed by market participants at the April 2008 agricultural forum. The American Cotton Producers of the National Cotton Council told the CFTC forum that the cotton futures market was totally dysfunctional and that cotton producers were unable to hedge their price exposure and that their concerns extended to cotton buyers with whom growers had contracted new crop sales. It has now been nineteen months since the cotton market disruption. Can you provide this Committee with any additional information about the investigation or let us know when we might expect to see the official report of the investigation?

The cotton investigation was a very important undertaking for the Commission and our Division of Enforcement. I expect to see something publically released outlining the results of the investigation in the near future.

Senate Committee on Agriculture, Nutrition & Forestry
Nomination Hearing
Questions for the record
Mr. Kenneth Albert Spearman
September 30, 2009

Senator Chuck Grassley

1. As you know many in the agriculture sector and in particular livestock producers are struggling to stay afloat. On top of the tough economic times they are facing, now it seems as if credit is also drying up. Many banks have looked at their agricultural portfolio as a liability and that in turn has added another burden to our producers. What do you see as the role of the Farm Credit Administration in working with the farm credit system member banks to help these producers through this economically uncertain time?

Answer:

The Farm Credit System serves to provide creditworthy farmers, ranchers, their cooperatives, and others with access to dependable and competitive credit. This is the System's primary mission whether the agricultural economy is prosperous or during an economic downturn – similar to what is being experienced today by many in the dairy and livestock sectors.

The Farm Credit Administration's mission is to ensure the System's safety and soundness while also promulgating rules and regulations so that the System meets its Congressional mission. As a FCA Board Member, I will strive to meet the agency's goals of System safety and soundness while being mindful of the System's mission to serve the credit needs of America's farmers and ranchers in good times as well as not so good times. And, be especially aware and sensitive to the hardships that farmers and ranchers may endure during cyclical downturns and strive to give them my utmost consideration.

Senator Tom Harkin

1. Mr. Spearman, you serve as an outside board member for the AgFirst Farm Credit Bank, and this experience clearly provides you with valuable background and knowledge for serving on the board of the Farm Credit Administration (FCA). AgFirst is one of the institutions of the Farm Credit System (FCS), all of which you will be tasked with overseeing as a member of the FCA Board. To be sure, you have pledged that you will if confirmed resign from the AgFirst board and comply with the applicable conflict of interest and ethics requirements.

As a regulator you will be tasked with ensuring the safety and soundness of the FCS and also ensuring that lending by FCS institutions complies with the statutory objectives, requirements, and limitations of the Farm Credit Act of 1971, as amended. The recent turmoil in the global financial system obviously underscores the crucial importance of enforcing prudent safety and soundness standards. At the same time, as a board member of the FCA, you will have a responsibility to help facilitate FCS institutions in making affordable credit available to borrowers who are eligible under the Act.

In the light of your previous position on the board of a FCS institution, please describe carefully the approach you will take and any specific steps involved to make sure that in your new position as a member of the board of the FCA you will be truly objective, even-handed, and free of pre-determined conclusions in handling the various questions that will come before you.

Answer:

As an independently appointed board member of AgFirst, my role was to serve as an external, independent point of view to the Board of Directors. As a controller and auditor of Florida's Natural Growers, my position was to provide to the business cooperative an independent and objective appraisal of its financials and to ensure that it complied with applicable accounting practices.

I believe my education, training and 28 years of experience in accounting and auditing will serve me well as a FCA Board Member. Furthermore, I believe my time as an outside Director on the AgFirst Board has given me a great appreciation for the vital role the Farm Credit System plays in agricultural lending.

If confirmed as a FCA Board Member, my role is to be an arms-length regulator of the System's safety and soundness so that it may continue to serve its congressional mission to meet the needs of America's farmers and ranchers with access to competitive credit.

My career as an auditor has required my objectivity and independence which I believe will serve me well as a FCA Board Member. I come to this new endeavor with an open mind, no preconceived positions, and a clear understanding of my new role. Lastly, I will strive to be fair and thoughtful in all issues that come before the FCA.

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